FLORIDA CRIME CHART

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- This guide is intended as a STARTING POINT. All citations and reccomendations should be independently examined.
- NOTE THE DATE at the top right-hand corner for each page, as both the Board of Immigration Appeals and Circuit Court precedent governing immigration law changes rapidly.
- This guide DOES NOT address misdemeanors perceived to fit into the petty offense exception. *See* INA § 212(a)(2)(A)(II).
- This guide DOES NOT address whether certain misdemeanor offenses can constitute aggravated felonies. *See Lopez v. Gonzales*, 549 U.S. 47 (2006).

Chart Usage Notes

- Review the "**Abbreviations and Explanation**" before using the chart.
- The Table of Contents includes hyperlinks to each page. Ctrl+Click to follow the link.
- Turn on the Navigation by going to "View" and checking the box for "Navigation Pane." The Table Contents will appear on a panel on the left-hand side.
- *Please close this document after you are done, so that others may use it or so that the editors may update it.*

ABBREVIATIONS AND EXPLANATIONS

ANSWER	EXPLANATION
YES/NO	The U.S. Supreme Court, a Circuit Court, or the Board of Immigration Appeals has addressed the issue in a published decision and provided a definite answer.
MAYBE/PROBABLY	A court has addressed the issue in an unpublished decision or no court has addressed the issue and therefore reasoning from an IJ decision is provided. Maybe and probably is also used when a court has found the statute to be divisible, and therefore, a court must apply the modified categorical approach to determine whether the statute is an aggravated felony or CIMT or other offense.

CODE	LAW	EXPLANATION
AGG FEL	INA § 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	An alien may be subject to *removable* as an aggravated felon. INA § 101 defines 21 "generic" offenses as aggravated felonies. Aggravated felons are ineligible to apply for most forms of discretionary relief including asylum, voluntary departure, and cancellation of removal. IJs are therefore typically faced with determining whether an alien's *state conviction* meets any of the 21 generic aggravated felony federal definitions.
CIMT	INA §§ 212(a)(2)(A)(i)(I), 237(a)(2)(A)(ii)	An alien may be *inadmissible or removable* if the crime committed is determined to be a "Crime Involving Moral Turpitude." A statute of conviction is a CIMT if: (1) it involves fraud; or (2a) it requires "some form of scienter," AND (2b) the prohibited conduct is "inherently base, vile, depraved and contrary to the accepted rules of organized society."

PSC	INA § 241(b)(3)	An alien is not *removable* "to a country if . . . the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion, unless the alien, among other conditions, has been convicted by a final judgment of a particularly serious crime" (PSC). "[A]n alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have committed a [PSC]."
i. Controlled Substance	INA §§ 212(a)(2)(A)(i)(II), 237(a)(2)(B)(i)	i. An alien may be *inadmissible or removable* if convicted of an offense "relating to" a controlled substance (CSO). In *Mellouli v. Lynch,* 135 S. Ct. 1980, 1990 (2015), the Supreme Court interpreted the "relating to" provision of section 237 narrowly, as requiring a link between an element of the alien's conviction to a drug listed on the Federal Schedule.
ii. Drug Trafficking	INA §§ 212(a)(2)(C), 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(B))	ii. An alien may be *inadmissible* if the IJ has "reason to believe" that the alien is, or has aided, a drug trafficker. The alien may be *removable* if the alien has been convicted of a controlled substance offense that corresponds to a generic Controlled Substances Act (CSA) offense or the statute contains a trafficking element as defined in *Matter of Davis*, 20 I&N Dec. 536 (BIA 1992).
DV/CHILD	INA § 237(a)(2)(E)	An alien is *removable* if the court of conviction makes a specific determination that he has committed a "crime of violence," as defined in 18 U.S.C. § 16(a),(b), against a spouse, child or domestic partner. This sectional also makes *removable* any alien who has been convicted of a stalking offense or who has violated a protective order at any time after his/her admission to the United States.
FIREARM	INA § 237(a)(2)(C)	An alien is *removable* for having been convicted of "purchasing, selling, offering for sale, exchanging, using, owning, possessing or carrying, or of attempting or conspiring any weapon, part or accessory which is a firearm or destructive device" (as defined in 18 U.S.C. 921(a)) in violation of any law.

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ABORTION – no case law

ABUSE, NEGLECT, AND EXPLOITATION OF ELDERLY PERSONS AND DISABLED ADULTS

Fla. Stat. § 825.102: Abuse, Aggravated Abuse, and Neglect of an Elderly Person or Disabled Adult (effective July 1, 2008)

(1) A person who knowingly or willfully abuses an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree.
(2) "Aggravated abuse of an elderly person or disabled adult" occurs when a person:
(a) commits aggravated battery on an elderly person or disabled adult;
(b) willfully tortures, maliciously punishes, or willfully and unlawfully cages, an elderly person or disabled adult; or
(c) Knowingly or willfully abuses an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult.
(3)(a) "Neglect of an elderly person or disabled adult" means:
1. A caregiver's failure or omission to provide an elderly person or disabled adult with the care, supervision, and services necessary to maintain the elderly person's or disabled adult's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the elderly person or disabled adult; or
2. A caregiver's failure to make a reasonable effort to protect an elderly person or disabled adult from abuse, neglect, or exploitation by another person.
(b) A person who willfully or by culpable negligence neglects an elderly person or disabled adult and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the second degree.
(c) A person who willfully or by culpable negligence neglects an elderly person or disabled adult without causing great bodily harm, permanent disability, or permanent disfigurement to the elderly person or disabled adult commits a felony of the third degree.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(ii)	825.102(1): third-degree felony: 5 years		**YES** A conviction for abuse of an elderly person or disabled adult pursuant to 825.102(1) is categorically a CIMT. *See Gelin v. U.S. Att'y Gen.*, 837 F.3d 1236 (11th Cir. 2016) (concluding that a violation of 825.102(1)(c) qualified as a CIMT because of (1) the culpable state of mind required by the statute and (2) the particularly vulnerable nature of the victims).	

ABUSE OF CHILDREN

Fla. Stat. § 827.03: Abuse, Aggravated Abuse, and Neglect of a Child (effective July 1, 2015)

(2) Offenses
(a) A person who commits aggravated child abuse commits a felony of the first degree
(b) A person who willfully or by culpable negligence neglects a child and in doing so causes great bodily harm, permanent disability or permanent disfigurement to the child commits a felony of the second degree
(c) A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability or permanent disfigurement to the child commits a felony of the third degree
(d) A person who willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(ii) **AGG FEL** 237(a)(2)(A)(iii) **DV/CHILD** 237(a)(2)(E)	827.03(2)(a): first-degree felony: 30 years 827.03(2)(c): second-degree felony: 5 years		**YES** Florida offense of aggravated child abuse was a CIMT for purposes of statute restricting judicial review over deportation cases. *Garcia v. Att'y Gen.*, 329 F.3d 1217 (11th Cir. 2003). The Eleventh Circuit based its reasoning on a Ninth Circuit decision, *Guerrero de Nodahi v. INS*, finding that inflicting cruel punishment or injury upon a child is so offensive to American ethics as to end the debate of whether moral turpitude was involved in the crime of child beating. 407 F.2d 1405, 1406–07 (9th Cir. 1969).	**Crime of Child Abuse under INA § 237(a)(2)(E)(i):** (b) (5) [redacted]

This section (section 2) of the chart is maintained and reviewed weekly by Corinne Berbaum, Judicial Law Clerk, corinne.berbaum@usdoj.gov, 305-808-9450.

				(b) (5) [redacted]

Fla. Stat. § 827.04: Contributing to the Delinquency or Dependency of a Child (effective October 1, 1996)

(1) Any person who:
(a) Commits any act which causes, tends to cause, encourages, or contributes to a child becoming a delinquent or dependent child or a child in need of services; or
(b) Induces or endeavors to induce, by act, threat, command, or persuasion, a child to commit or perform any act, follow any course of conduct, or live in a manner that causes or tends to cause such child to become or to remain a dependent or delinquent child or a child in need of services, commits a misdemeanor of the first degree.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
DV/CHILD 237(a)(2)(E)	827.04(1): first-degree misdemeanor: 1 year			(b) (5) [redacted]

Fla. Stat. § 827.071: Sexual Performance by a Child; Penalties (effective October 1, 2012)

(1) As used in this section, the following definitions apply…
(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian or custodian of such child, consents to the participation by such child in a sexual performance.
(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age.
(4) It is unlawful for any person to possess with the intent to promote any photograph, motion, picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession is prima facie evidence of an intent to promote.
(5) (a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of such photograph, motion picture, exhibition, show, image, date, computer depiction, representation or presentation is a separate offense. A person who violates this subsection commits a felony of the third degree.
(b) This subsection does not apply to material possessed, controlled or intentionally viewed as part of a law enforcement investigation.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 101(a)(43)(I) **DV/CHILD** 237(a)(2)(E	827.071(5): third-degree felony: 5 years	(b) (5) [redacted]	**YES** The offense of possession of child pornography in violation of 827.071(5) is a CIMT. *See Matter of Olquin-Rufino*, 23 I&N Dec. 896, 898 (BIA 2006) (concluding that the offense of possession of child pornography is morally reprehensible and intrinsically wrong).	

ADULTERY – no case law

AFFRAYS; RIOTS; ROUTS; UNLAWFUL ASSEMBLIES – no case law

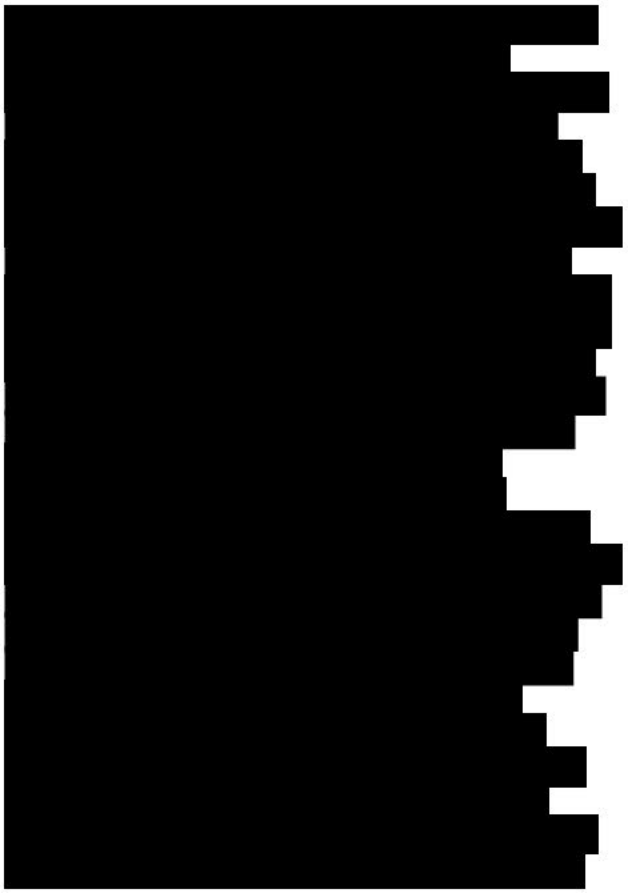
ANIMALS: CRUELTY; SALES; ANIMAL ENTERPRISE PROTECTION – no case law

ARSON AND CRIMINAL MISCHIEF

Fla. Stat. § 806.01: Arson (effective July 1, 1997)

(1) Any person who willfully and unlawfully, or while in the commission of any felony, by fire or explosion, damages or causes to be damaged:
(a) Any dwelling, whether occupied or not, or its contents;
(b) Any structure, or contents thereof, where persons are normally present, such as: jails, prisons, or detention centers; hospitals, nursing homes, or other health care facilities; department stores, office buildings, business establishments, churches, or educational institutions during normal hours of occupancy; or other similar structures; or
(c) Any other structure that he or she knew or had reasonable grounds to believe was occupied by a human being,
is guilty of arson in the first degree, which constitutes a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any person who willfully and unlawfully, or while in the commission of any felony, by fire or explosion, damages or causes to be damaged any structure, whether the property of himself or herself or another, under any circumstances not referred to in subsection (1), is guilty of arson in the second degree, which constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) As used in this chapter, "structure" means any building of any kind, any enclosed area with a roof over it, any real property and appurtenances thereto, any tent or other portable building, and any vehicle, vessel, watercraft, or aircraft.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(I), 237(a)(2)(A)(ii) **AGG FEL** 237(a)(2)(A)(iii), 101(a)(43)(F)	775.082: second-degree felony: 15 years	(b) (5) [redacted]	**YES** The Eleventh Circuit has held that a conviction under 806.01(2) was a CIMT. *See Vuksanovic v. U.S. Att'y Gen.*, 439 F.3d 1308, 1311 (11th Cir. 2006) (stating that arson "evinc[es] certain baseness in private and social duties person owed to society, and was contrary to accepted and customary rule of right and duty between people"); *see also Matter of S-*, 3 I&N Dec. 617, 617–18 (BIA 1949) (finding that attempted	

		(b) (5) [redacted]  **Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).**	arson in violation of a Canadian criminal statute was a CIMT because arson necessarily involves moral turpitude).	

Fla. Stat. § 806.13: Criminal Mischief; Penalties; Penalty for Minor (effective July 1, 2002)

(1)(a) A person commits the offense of criminal mischief if he or she willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto.
(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
4. If the person has one or more previous convictions for violating this subsection, the offense under subparagraph 1. or subparagraph 2. for which the person is charged shall be reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than $200.
(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided is posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.
(4) Any person who willfully and maliciously defaces, injures, or damages by any means a sexually violent predator detention or commitment facility, as defined in part V of chapter 394, or any property contained therein, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to property is greater than $200.
(5)(a) The amounts of value of damage to property owned by separate persons, if the property was damaged during one scheme or course of conduct, may be aggregated in determining the grade of the offense under this section.
(b) Any person who violates this section may, in addition to any other criminal penalty, be required to pay for the damages caused by such offense.
(6)(a) Any person who violates this section when the violation is related to the placement of graffiti shall, in addition to any other criminal penalty, be required to pay a fine of:
1. Not less than $250 for a first conviction.
2. Not less than $500 for a second conviction.
3. Not less than $1,000 for a third or subsequent conviction.
(b) Any person convicted under this section when the offense is related to the placement of graffiti shall, in addition to any other criminal penalty, be required to perform at least 40 hours of community service and, if possible, perform at least 100 hours of community service that involves the removal of graffiti.
(c) If a minor commits a delinquent act prohibited under paragraph (a), the parent or legal guardian of the minor is liable along with the minor for payment of the fine. The court may decline to order a person to pay a fine under paragraph (a) if the court finds that the person is indigent and does not have the ability to pay the fine or if the court finds that the person does not have the ability to pay the fine whether or not the person is indigent.
(7) In addition to any other penalty provided by law, if a minor is found to have committed a delinquent act under this section for placing graffiti on any public property or private property, and:
(a) The minor is eligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to revoke or withhold issuance of the minor's driver license or driving privilege for not more than 1 year.

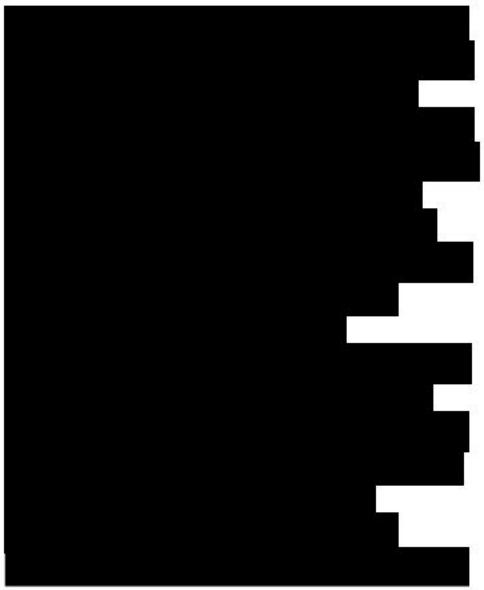
(b) The minor's driver license or driving privilege is under suspension or revocation for any reason, the court shall direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of not more than 1 year.
(c) The minor is ineligible by reason of age for a driver license or driving privilege, the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for not more than 1 year after the date on which he or she would otherwise have become eligible.
(8) A minor whose driver license or driving privilege is revoked, suspended, or withheld under subsection (7) may elect to reduce the period of revocation, suspension, or withholding by performing community service at the rate of 1 day for each hour of community service performed. In addition, if the court determines that due to a family hardship, the minor's driver license or driving privilege is necessary for employment or medical purposes of the minor or a member of the minor's family, the court shall order the minor to perform community service and reduce the period of revocation, suspension, or withholding at the rate of 1 day for each hour of community service performed. As used in this subsection, the term "community service" means cleaning graffiti from public property.
(9) Because of the difficulty of confronting the blight of graffiti, it is the intent of the Legislature that municipalities and counties not be preempted by state law from establishing ordinances that prohibit the marking of graffiti or other graffiti-related offenses. Furthermore, as related to graffiti, such municipalities and counties are not preempted by state law from establishing higher penalties than those provided by state law and mandatory penalties when state law provides discretionary penalties. Such higher and mandatory penalties include fines that do not exceed the amount specified in ss. 125.69 and 162.21, community service, restitution, and forfeiture. Upon a finding that a juvenile has violated a graffiti-related ordinance, a court acting under chapter 985 may not provide a disposition of the case which is less severe than any mandatory penalty prescribed by municipal or county ordinance for such violation.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(ii)	775.082: third-degree felony: 5 years		(b) (5) [redacted]	

ASSAULT; BATTERY; CULPABLE NEGLIGENCE

Fla. Stat. § 784.011: Assault (effective 1975)

(1) An "assault" is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.
(2) Whoever commits an assault shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii) 101(a)(43)(F) (deadly weapon)	775.082: second-degree misdemeanor: 60 days	**MAYBE** The Eleventh Circuit has affirmed an IJ's finding that a conviction under 784.011 constitutes an aggravated felony under INA § 101(a)(43)(F). *Villalva v. U.S. Att'y Gen.*, 591 F. App'x 732, 733 (11th Cir. 2014) (The issue in this case, though, was whether the respondent had the requisite term of imprisonment; although he was originally on probation, his probation was revoked and he was sentenced to five years.)	(b) (5) [redacted] 	

Fla. Stat. § 784.021: Aggravated Assault (effective 1975)

(1) An "aggravated assault" is an assault:
  (a) With a deadly weapon without intent to kill; or
  (b) With an intent to commit a felony.
(2) Whoever commits an aggravated assault shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii), 101(a)(43)(F) **CIMT** 212(a)(2) (A)(i)(I), 237(a)(2) (A)(ii)	775.082: third-degree felony: 5 years	**MAYBE** The Eleventh Circuit has held that aggravated assault with a deadly weapon is an AGG FEL under 101(a)(43)(F) (deadly weapon). *Villalva v. U.S. Att'y Gen.*, 591 F. App'x 732 (11th Cir. 2014). The court rejected the argument that a five-year sentence imposed after probation was revoked did not count towards the "term of imprisonment of at least one year" requirement for AGG FELs. *Id.* at 734. The court reasoned that (1) Florida law clearly holds that the sentence imposed after a probation violation is for the original, underlying offense; and (2) the factual circumstances of the proceedings relating to Respondent's underlying offense reflected that description of Florida law, that is, Respondent was not adjudicated guilty of the underlying offense until his probation was	**MAYBE** The BIA has held that a conviction under 784.021 is a CIMT. *Matter of Glenroy Blackwood*, A062 678 337, 2016 WL 1357927, at *1 (BIA Mar. 18, 2016). Even though the Florida statute "does not require a specific intent to commit violence," as is required for a crime to be a CIMT, "it does require a specific intent 'to make a threat to do violence.'" *Id.* Therefore, 784.021 has the requisite intent to constitute a CIMT. *Id.* (citing *Matter of Medina*, 15 I&N Dec. 611, 612 (BIA 1976) (stating assault with a deadly weapon is a CIMT after applying the modified categorical approach); *Matter of Ptasi*, 12 I&N Dec. 790 (BIA 1968); *Matter of Goodalle*, 12 I&N Dec. 106 (BIA 1967); *Matter of G-R-*, 2 I&N Dec. 733) (BIA 1946; A.G. 1947)).	**Crime of Violence under U.S.S.G. § 2L1.2: MAYBE – 784.021(1)(a)** The Eleventh Circuit has applied the categorical approach to determine if "aggravated assault" in Florida met the generic definition of "aggravated assault" under the enumerated list of crimes for COVs under 2L1.2. *See United States v. Escobar-Pineda*, 428 F. App'x 961, 962 (11th Cir. 2011). The court held that because 784.021(1)(a) requires the use of a deadly weapon, it fits within the generic meaning of aggravated assault under 2L1.2. *Id.* *See also United States v. Golden*, 854 F.3d 1256 (11th Cir. 2017) (relying on *Turner v. Warden Coleman FCI*, 709 F.3d 1328, 1338–38 n.6 (11th Cir. 2013) and concluding that Florida's aggravated assault statute constitutes a COV under U.S.S.G. § 2K2.1(a)(2)) (citing U.S.S.G. § 2K2.1(a)(2) cmt.

		revoked, at which time he was sentenced to a five-year term of imprisonment. *Id.* (citing *Dixon v. U.S. Att'y Gen.*, 768 F.3d 1339, 1342 (11th Cir. 2014)). **Crime of Violence under 18 U.S.C. § 16(a): PROBABLY YES** The BIA has affirmed an IJ's conclusion that an aggravated assault conviction constituted an COV/AGG FEL under INA § 101(a)(43)(F) because the full range of conduct covered by the statute fell within the meaning of COV under 18 U.S.C. § 16(a). *See* (b) (6) [redacted] **Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).**		n.1 (incorporating the definition of "crime of violence" from U.S.S.G. § 4B1.2)).

Fla. Stat. § 784.03: Battery; Felony Battery (effective July 1, 2001)

(1)(a) The offense of battery occurs when a person:
1. Actually and intentionally touches or strikes another person against the will of the other; or
2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2), a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii)	784.03(1): first-degree misdemeanor: 1 year 784.03(2): third-degree felony: 5 years	**MAYBE** The BIA has affirmed an IJ's decision that employed the modified categorical approach to determine that the defendant's conviction for 784.03 contained the requisite force for being a COV (as is required for a finding that a crime is also an aggravated felony). (b) (6) [redacted] **Crime of Violence under 18 U.S.C. § 16(a): MAYBE** The Eleventh Circuit affirmed the judgment of the district court, concluding that a conviction for battery of a jail detainee (Fla. Stat. §§ 784.03, 784.082) qualifies as a conviction for a crime of violence. *See United States v. Gandy*, 917 F.3d 1333 (11th Cir. 2019). The court determined that it could apply the modified categorical approach because the statute was divisible between		**Crime of Violence under U.S.S.G. § 2L1.2: SIMPLE BATTERY—NO** Simple battery under the Florida Statute does not qualify as a crime of violence because it is satisfied by slight unwanted touch and did not require use of force capable of causing pain or injury. *See United States v. Vail-Bailon*, 868 F.3d 1293 (11th Cir. 2017).

		"touching or striking" battery and "intentionally causing bodily harm" battery. In applying the modified categorical approach, the court concluded that the petitioner's record of conviction established that the alien was necessarily convicted under the "intentionally causing bodily harm" portion of the statute, a "crime of violence" under the U.S.S.G. **Violent Felony under the Armed Career Criminal Act, 18 U.S.C. § 924(e)(1): MAYBE** SCOTUS has stated that the Florida felony offense of battery by actually and intentionally touching another person does not have as an element the use of physical force against the person of another; thus, the statute does not categorically constitute a violent felony under § 924(e)(2)(B)(i) of the Armed Career Criminal Act. *Johnson v. United States*, 559 U.S. 133 (2010) (applying the categorical approach and looking to the 'least of the . . . acts" because *Shepard* documents were not available). **However,** the Eleventh Circuit has more recently held that 784.03 was divisible and therefore a court may look to *Shepard* documents to determine whether the conviction was for "intentionally striking" or "intentionally touching" a victim. *See United States v. Green*, 842 F.3d 1299 (11th Cir. 2016). In *Green*, the trial court relied on a document that served as the factual basis for a		

		nolo contendere plea because the document was expressly incorporated in the judicial record by reference; the document revealed that respondent's conviction was under the "striking element" of the statute.		

Fla. Stat. § 784.041: Felony Battery; Domestic Battery by Strangulation (effective October 1, 2007)

(1) A person commits felony battery if he or she:
(a) Actually and intentionally touches or strikes another person against the will of the other; and
(b) Causes great bodily harm, permanent disability, or permanent disfigurement.
(2) (a) A person commits domestic battery by strangulation if the person knowingly and intentionally, against the will of another, impedes the normal breathing or circulation of the blood of a family or household member or of a person with whom he or she is in a dating relationship, so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person. This paragraph does not apply to any act of medical diagnosis, treatment, or prescription which is authorized under the laws of this state.
(b) As used in this subsection, the term:
1. "Family or household member" has the same meaning as in s. 741.28.
2. "Dating relationship" means a continuing and significant relationship of a romantic or intimate nature.
(3) A person who commits felony battery or domestic battery by strangulation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii) (corresponds with § 101(a)(43) (A)–(U))	775.082: third-degree felony: 5 years	**Crime of Violence under 18 U.S.C. 16(b): NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). *Dimaya* thus overrules *Matter of Francisco-Alonzo*, 26 I&N Dec. 594, 601 (BIA 2015). **Violent Felony under ACCA: PROBABLY YES** The Eleventh Circuit has held in an unpublished decision that domestic battery by strangulation, Fla. Stat. § 784.041(2)(A), is categorically a violent felony under the ACCA's element clause. *See United States v. Moss*, 16-13476, 2017 WL 462102, at *3 (11th Cir. Feb. 3, 2017). The court reasoned that the statute	**MAYBE** The BIA has concluded that 784.041(1) is a CIMT because the statute requires the state to prove the conduct "caused great bodily harm, permanent disability, or permanent disfigurement." *See* (b) (6) [redacted] citing *United States v. Vail-Bailon*, 868 F.3d 1293, 1298, 1302–03 (11th Cir. 2017) for the proposition that	**Crime of Violence under U.S.S.G. § 2L1.2: YES – 784.041(1), Felony Battery** Section 784.041(1) necessarily requires the use of physical force, that is, violent force capable of causing physical pain or injury to another, and thus, the statute categorically qualifies as a COV under the elements clause of the U.S. Sentencing Guidelines governing unlawfully entering or remaining in the United States. *See United States v. Vail-Bailon*, 868 F.3d 1293 (11th Cir. 2017). The Eleventh Circuit clarified that "slight discomfort and minor injuries do not satisfy the great bodily harm element of § 784.041. Instead, that element

		requires the knowing and intentional use of force capable of causing physical pain or injury to another. *Id.* The court determined whether the "least of the acts criminalized" requires "the use, attempted use, or threatened use of physical force against the person of another." *Id.* at *1. It found that no plausible application of the Florida domestic-battery-by-strangulation statute exists that covers "mere touching." *Id.* at *3. "Rather, the force required to create a risk of great bodily harm in the ways contemplated by § 784.041(2)(a)—knowingly and intentionally impeding normal breathing or circulation by applying pressure to the victim's throat or neck or blocking the victim's nose or mouth—was necessarily force '*capable* of causing physical pain or injury to another person.'" *Id.*	such a batter must be intentional and inflict a severe physical injury). The BIA relied on *Sosa-Martinez v. U.S. Atty. Gen.*, 420 F.3d 1338, 1342 (11th Cir. 2005), where the Eleventh Circuit concluded that aggravated felony included any intentional battery that includes, as an element of the offense, either (1) that it caused great bodily harm, permanent disability, or permanent disfigurement, or (2) involved the use of a deadly weapon constitutes a crime of moral turpitude. The BIA also noted that Florida courts have found that felony battery—which requires that the defendant cause great bodily harm, permanent disability, or permanent disfigurement to the victim—cannot be committed without the use of physical force or violence, *See Brooks v. State*, 93 So.3d 402 (Fla. 2d DCA 2012). Thus, it stated, "if we consider the minimum conduct required that has a realistic probability of being prosecuted under the statute of conviction, an intentional but minimal unconsented touching of the victim is insufficient to obtain a conviction under Florida's felony battery statute, as it must also cause great bodily harm,	requires that the defendant inflict a severe physical injury on the victim." **Crime of Violence under U.S.S.G. § 2K2.1: YES – 784.041(2)(a), Domestic Battery by Strangulation** Felony domestic battery by strangulation is categorically a COV under the elements clause of the career offender sentencing guidelines. *See United States v. Dixon*, --- F.3d ---, 2017 WL 4767138 (Oct. 23,2017). Examining the minimum conduct criminalized by the state statute, the Eleventh Circuit found that to violate the statute, the defendant's conduct must have impeded the victim's normal breathing or circulation to the degree that he created a risk of or caused great bodily harm. Thus, the Court disagreed with the defendant's argument that creating a de minimus risk of great bodily harm would satisfy the statute—instead, the act must impede breathing or circulation, and beyond that, must cause great bodily harm or create a risk of great bodily harm.

			permanent disability, or permanent disfigurement to the victim." The BIA continued, "therefore, inherent in the statute, is the application of intentional violent physical force that necessarily causes great bodily harm, permanent disability, or permanent disfigurement to the victim. In effect, the statute criminalizes injurious conduct that reflects a level of immorality that is greater than that associated with a simple offensive touching."	

Fla. Stat. § 784.045: Aggravated Battery (effective October 1, 1988)

(1)(a) A person commits aggravated battery who, in committing battery:
1. Intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or
2. Uses a deadly weapon.

(b) A person commits aggravated battery if the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant.

(2) Whoever commits aggravated battery shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii), 101(a)(43)(F) **CIMT** 212(a)(2) (A)(i)(I), 237(a)(2) (A)(ii) **PSC** 241(b)(3)	775.082: second-degree felony: 15 years	**MAYBE – 784.045(1)** The BIA stated in dicta that the IJ committed "no error" in finding that 784.045(1)(a) was an aggravated felony under 101(a)(43)(F). (b) (6) [redacted] No reasoning was provided.	**YES – 784.045(1) & 827.03(1), (3)** The Eleventh Circuit has held that 784.045(1) is a CIMT because the inherent nature of the crime of "aggravated child abuse" involves "baseness, vileness, or depravity." *Garcia v. U.S. Att'y Gen.*, 329 F.3d 1217, 1222 (11th Cir. 2003). Also, the Eleventh Circuit Court of Appeals has held that both prongs of 784.045, involve moral turpitude. *See Sosa-Martinez v. U.S. Atty. Gen.*, 420 F.3d 1338, 1342 (11th Cir. 2005). The court concluded that any intentional battery that includes, as an element of the offense, either (1) that it caused great bodily harm, permanent disability, or permanent disfigurement, or (2) involved the use of a deadly weapon constitutes a crime of moral turpitude. *Id.* (citing, decisions of other circuit courts	**PSC: MAYBE – 784.045** The Eleventh Circuit has stated that 784.045 is a PSC because "[w]hen the offense in question is not a per se particularly serious crime, the Attorney General retains discretion to determine on a case-by-case basis whether the offense constituted a particularly serious crime." *Lapaix v. U.S. Att'y Gen.*, 605 F.3d 1138, 1143 (11th Cir. 2010). IJs may also consider factors like the nature of the conviction, the type of sentence imposed, and the circumstances or underlying facts of the conviction." *Id.* After so doing, the Court concluded that defendant's conviction under 784.045 was a PSC. *Id.* at 1144. **Crime of Violence under U.S.S.G. § 2L1.2: MAYBE – 784.045(1)(b)** Because 784.045 may be committed by a person touching someone else without

			involving laws similar to Florida's aggravated battery statute, all concluding that assault or aggravated assault involves moral turpitude where conviction under the statute requires the use of a dangerous weapon or infliction of bodily injury). The Florida offenses of aggravated battery and felony battery both require the state to prove the conduct "caused great bodily harm, permanent disability, or permanent disfigurement." **YES – 784.045 – Under 8 U.S.C. § 1227(a)(2)(A)(i)** The Eleventh Circuit has held that 784.045 is a CIMT because the elements include that the person commit a simple battery and either cause great bodily harm, disability, or disfigurement, OR use a deadly weapon. *Sosa-Martinez v. U.S. Att'y Gen.*, 420 F.3d 1338, 1342 (11th Cir. 2005).	consent (i.e. rubbing a pregnant person's belly without asking), it is not categorically a COV under U.S.S.G. § 2L1.2. *United States v. Diaz-Calderone*, 716 F.3d 1345, 1347 (11th Cir. 2013). The court affirmed the district court's use of the modified categorical approach then, since the statute is divisible, to determine what conduct the defendant did when committing this crime. *Id.* 1348. The district judge listened to the change of plea transcript and determined that the conduct the defendant did satisfy the "force" requirement for a COV because he struck the pregnant woman. *Id.* at 1350–51. Section 784.045 is committed when the offender commits a battery and thereby "*intentionally or knowingly* causes great bodily harm, permanent disability, or permanent disfigurement" to his victim. *United States v. Vail-Bailon*, 868 F.3d 1293 (11th Cir. 2017) (citing *T.S. v. State*, 965 So.2d 1288, 1290 & N.3 (Fla. 2d DCA 2007).

Fla. Stat. § 784.048: Stalking; Definitions; Penalties (effective October 1, 2012)

(1) As used in this section, the term:

(a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child under 16 years of age commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.

(7) A person who, after having been sentenced for a violation of s. 794.011, s. 800.04, or s. 847.0135(5) and prohibited from contacting the victim of the offense under s. 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

(9)

(a) The sentencing court shall consider, as a part of any sentence, issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her family members or individuals closely associated with the victim.

(b) The order may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii) (corresponds with § 101(a)(43) (A)–(U)) **CIMT** 212(a)(2) (A)(i)(I), 237(a)(2) (A)(ii)	784.048(2): first-degree misdemeanor: 1 year 784.048(3): third-degree felony: 5 years 784.048(4): third-degree felony: 5 years 784.048(5): third-degree felony: 5 years 784.048(7): third-degree felony: 5 years	**Crime of Violence under 18 U.S.C. § 16(a): MAYBE – 748.048(4)** The BIA relied on *U.S. v. Insaulgarat*, 378 F.3d 456 (5th Cir. 2004) in finding that 784.084(4) is not a COV under 16(a) because it does "not require any use, or threatened or attempted use, of physical force" on the face of the statute. (b) (6) [redacted]. **Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).**	**MAYBE – 784.084(4)** The BIA has held this statute was a CIMT because the statute requires the respondent to have acted knowingly, willfully, maliciously, and repeatedly after the respondent was on notice that a protection order was imposed. (b) (6) [redacted] Thus, the BIA found that the conduct within the statute is inherently base, vile, or depraved. In another decision, the BIA applied the "realistic probability" test and found that the minimum conduct for which the respondent could be convicted under 784.048(4) qualifies as a CIMT because it involves conduct that is inherently base, vile, or depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general. *See* (b) (6) [redacted] The statute requires, at minimum, that the perpetrator act willfully, knowingly, and maliciously to cause a reasonable person to experience "substantial	**Crime of Violence under U.S.S.G. § 4B1.1: NO – 784.0484(4)** The Fifth Circuit has stated that the statute, on its face, does not include the requisite physical force for finding it to be a COV/AGG FEL for purposes of 4B1.1. *United States v. Insaulgarat*, 378 F.3d 456, 469 (5th Cir. 2004). The court then looked to the indictment to determine whether the force employed was sufficient. *Id.* The indictment was silent as to defendant's conduct, so the court assumed he acted with the least culpable act that satisfied the statute. *Id.* at 470. The court held that, regardless, the statute did "not have as one of its elements the use, attempted use, or threatened use of force," and that the conduct in the indictment did not involve a risk of physical injury to another. *Id.* at 471. Thus, this statute is not an AGG FEL/COV. *Id.*

			emotional distress." Moreover, "aggravated stalking" requires the perpetrator to place the victim in reasonable fear of death or bodily injury.	

Fla. Stat. § 784.07: Assault or Battery of Law Enforcement Officers, Firefighters, Emergency Medical Care Providers, Public Transit Employees or Agents, or Other Specified Officers; Reclassification of Offenses; Minimum Sentences (effective July 1, 2014)

(1) As used in this section, the term:

(a) "Emergency medical care provider" means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, medical director as defined in s. 401.23, or any person authorized by an emergency medical service licensed under chapter 401 who is engaged in the performance of his or her duties. The term "emergency medical care provider" also includes physicians, employees, agents, or volunteers of hospitals as defined in chapter 395, who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital's emergency department or the security thereof.

(b) "Firefighter" means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(c) "Law enforcement explorer" means any person who is a current member of a law enforcement agency's explorer program and who is performing functions other than those required to be performed by sworn law enforcement officers on behalf of a law enforcement agency while under the direct physical supervision of a sworn officer of that agency and wearing a uniform that bears at least one patch that clearly identifies the law enforcement agency that he or she represents.

(d) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Commission on Offender Review; a federal law enforcement officer as defined in s. 901.1505; and law enforcement personnel of the Fish and Wildlife Conservation Commission or the Department of Law Enforcement.

(e) "Public transit employees or agents" means bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l).

(f) "Railroad special officer" means a person employed by a Class I, Class II, or Class III railroad and appointed or pending appointment by the Governor pursuant to s. 354.01.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a railroad special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:
(a) A "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.
(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2) (A)(iii) (corresponds with § 101(a)(43) (A)–(U)) **CIMT** 212(a)(2) (A)(i)(I), 237(a)(2) (A)(ii) **FIREARM** 237(a)(2) (C)	784.07(2)(a): first-degree misdemeanor: 1 year 784.07(2)(b): third-degree felony: 5 years 784.07(2)(c): second-degree felony: 15 years 784.07(2)(d): first-degree felony: 30 years	**Crime of Violence under 18 U.S.C. § 16(a): MAYBE – 784.07(2)(b)** The BIA has held that 784.07(2)(b) is not a COV under 16(a) after applying the modified categorical approach. In determining whether this statute was a COV/AGG FEL under 16(a), the BIA found that the statute was divisible because it encompassed offenses that did not fall within the definition of a COV under 16(a) (b) (6) [redacted] The BIA then applied the modified categorical approach and looked to the *Shepard* documents; however, the documents did not describe the particular conduct the respondent engaged in. *Id.* Thus, the statute is not a COV and therefore not an AGG FEL under 16(a).	**MAYBE** The BIA has held that 784.07 is a CIMT when the battery against the peace officer causes bodily harm to the victim (b) (6) [redacted]. In this case, the defendant did not cause bodily harm to the officer, meaning his conviction was not a CIMT. *Id.*	**Crime of Violence under U.S.S.G. § 4B1.2(a): YES – 784.07** The Eleventh Circuit has held that this statute was a COV because battery under Florida law requires (1) actually and intentionally touching or striking another, or (2) intentionally causing harm to another. *United States v. Glover*, 431 F.3d 744, 749 (11th Cir. 2005). Section 4B1.2(a) defines a COV as an offense that has "an element the use attempted use, or threated use of physical force against the person of another." *Id.* As such, the court held that 784.07 is a COV.

		Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).		

Fla. Stat. § 784.085: Battery of Child by Throwing, Tossing, Projecting, or Expelling Certain Fluids or Materials (effective July 1, 2000)

(1) It is unlawful for any person, except a child as defined in this section, to knowingly cause or attempt to cause a child to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, projecting, or expelling such fluid or material.
(2) Any person, except a child as defined in this section, who violates this section commits battery of a child, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) As used in this section, the term "child" means a person under 18 years of age.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2) (A)(i)(I), 237(a)(2) (A)(ii) **CRIME OF CHILD ABUSE** 237(A)(2)(e)(I)	Third-degree felony: 5 years		**YES** The statute is not divisible. The Eleventh Circuit first noted: If a conviction requires that a defendant acted knowingly or intentionally, the statute "requires a sufficiently culpable mental state to constitute a CIMT." *Pierre v. U.S. At'y Gen.*, -- F.3d --, 16-15898, 2018 WL 456205, at *7 (11th Cir. Jan. 18, 2018). Similarly, if a statute "requires an intentional act targeted at vulnerable victims," that requirement "further demonstrates that a violation of the statute is morally turpitudinous." *Id.* A conviction under § 784.085 means that, at a minimum, he knowingly projected blood, seminal fluid, urine, or feces at a child. *Id.* By its plain terms, the statute requires that the defendant had a knowing mental state. In the battery context, Florida courts	**CRIME OF CHILD ABUSE: YES** The statute is not divisible. Applying the categorical approach, the least culpable conduct covered by the statute—knowingly attempting to cause a child to come into contact with these particular bodily fluids or feces, by the overt act of throwing, tossing, projecting, or expelling the fluids or feces—constitutes a crime of child abuse. *Pierre v. U.S. Att'y Gen.*, -- F.3d ---, 16-15898, 2018 WL 456205, at *6 (11th Cir. Jan. 18, 2018). Battery under 784.085 requires an overt act and Florida law requires an overt act for a conviction for attempt. An act that knowingly attempts to cause a child to come into contact with blood, seminal fluid, urine, or feces—whether or not the attempt is successful—carries a significant risk of physically injuring or harming the child. A child who has had blood or urine thrown at her by an adult is at substantial risk of mental or emotional harm, in addition to the possibility of physical injury through "expos[ure] to fluid-borne or fecal pathogens." At a minimum, this repugnant type of battery or attempted battery

			have interpreted the requirement of a "knowing" mental state to mean the defendant must have had specific intent. *See, e.g., T.S. v. State*, 965 So.2d 1288, 1290 (Fla. Dist. Ct. App. 2007). Thus, although § 784.085 does not expressly tie the knowing mental state to each element of the crime, it is apparent that a defendant cannot be convicted under § 784.085 unless he knew that he was (1) projecting (2) bodily fluids or feces (3) at a child. Regarding culpable conduct, the vulnerable status of the victim and the inherent nature of deliberately projecting bodily fluids or feces at a child is base and vile, and "contrary to the accepted and customary rule of right and duty between man and man." (citing *Cano v. U.S. Att'y Gen.*, 709 F.3d 1052, 1053 (11th Cir. 2013)).	constitutes maltreatment of a child. *See Matter of Soram*, 25 I&N Dec. at 382–83.

BIGAMY; INCEST – no case law

BRIBERY, MISUSE OF PUBLIC OFFICE

Fla. Stat. § 838.021: Corruption by Threat against Public Servant (effective July 1, 2010)

(1) It is unlawful to harm or threaten to harm any public servant, his or her immediate family, or any other person with whose welfare the public servant is interested with the intent to:
(a) Influence the performance of any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.
(b) Cause or induce the public servant to use or exert, or procure the use or exertion of, any influence upon or with any other public servant regarding any act or omission that the person believes to be, or that the public servant represents as being, within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.
(2) Prosecution under this section shall not require any allegation or proof that the public servant ultimately sought to be unlawfully influenced was qualified to act in the desired way, that the public servant had assumed office, that the matter was properly pending before him or her or might by law properly be brought before him or her, that the public servant possessed jurisdiction over the matter, or that his or her official action was necessary to achieve the person's purpose.
(3)(a) Whoever unlawfully harms any public servant or any other person with whose welfare the public servant is interested shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Whoever threatens unlawful harm to any public servant or to any other person with whose welfare the public servant is interested shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I) 237(a)(2)(A)	838.021(3)(a): second-degree felony: 15 years 838.021(3)(b): third-degree felony: 5 years		**YES** The BIA has held that offenses that impair or obstruct the lawful function of government by defeating its efficiency or destroying the value of its operations by graft, trickery, or dishonest means involves moral turpitude. *See Matter of Jurado-Delgado*, 24 I&N Dec. 29, 35 (BIA 2006).	

BURGLARY AND TRESPASS

Fla. Stat. § 810.02: Burglary (effective July 1, 2016)

(1)(a) For offenses committed on or before July 1, 2001, **"burglary"** means entering or remaining in a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.
(b) For offenses committed after July 1, 2001, "burglary" means:
1. Entering a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter; or
2. Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance:
a. Surreptitiously, with the intent to commit an offense therein;
b. After permission to remain therein has been withdrawn, with the intent to commit an offense therein; or
c. To commit or attempt to commit a forcible felony, as defined in s. 776.08.

(2) Burglary is a felony of **the first degree**, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender:
(a) Makes an assault or battery upon any person; or
(b) Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or
(c) Enters an occupied or unoccupied dwelling or structure, and:
1. Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or
2. Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of $1,000.

(3) Burglary is a felony of **the second degree**, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:
(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;
(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;
(c) Structure, and there is another person in the structure at the time the offender enters or remains;
(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains;
(e) Authorized emergency vehicle, as defined in s. 316.003; or
(f) Structure or conveyance when the offense intended to be committed therein is theft of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for burglary with the intent to commit theft of a controlled substance under this paragraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the burglary is committed within a county that is subject to a state of emergency declared by the Governor under chapter 252 after the declaration of emergency is made and the perpetration of the burglary is facilitated by conditions arising from the emergency, the burglary is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a burglary

within a county that is subject to such a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(4) Burglary is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:
(a) Structure, and there is not another person in the structure at the time the offender enters or remains; or
(b) Conveyance, and there is not another person in the conveyance at the time the offender enters or remains.
However, if the burglary is committed within a county that is subject to a state of emergency declared by the Governor under chapter 252 after the declaration of emergency is made and the perpetration of the burglary is facilitated by conditions arising from the emergency, the burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a burglary within a county that is subject to such a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL: COV 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(F), (G) **CIMT** 212(a)(2)(A)(i)(I) 237(a)(2)(A)	First-degree felony: 30 years Second-degree felony: 15 years Third-degree felony: 5 years.	**INDIVISIBLE:** The Eleventh Circuit has held that "Florida's burglary statute creates a single indivisible crime that includes non-generic burglary. That means no conviction under the statute can be assumed to be generic." *United States v. Esprit*, 841 F.3d 1235, 1241 (11th Cir. 2016). "Because Florida law defines both a dwelling and a structure as 'a building . . . together with the curtilage thereof,' . . . Florida does not consider burglary of the curtilage of a structure to be a crime distinct from burglary of that structure." *Id.* at 1240	**YES: Occupied Dwelling** Burglary of an occupied dwelling categorically involves moral turpitude, regardless of what crime was intended to be committed at the time of the break-in. *Matter of Louissaint*, 24 I&N Dec. 754, 759 (BIA 2009) (distinguishing the burglary of a building conviction in in *Matter of M-*, 2 I&N Dec. 721 (BIA 1946) from a conviction for a burglary of an occupied dwelling **under 810.02(3)(a)**). Burglary of a	**Crime of Violence under U.S.S.G. § 2L1.2(b)(1)(A)(ii): NO** The Eleventh Circuit has held that the 2009 version of second degree burglary of a dwelling,[1] Fla. Stat. § 810.02(3), which is substantially similar to the 2016 version, is **not divisible** because it contains means instead of alternative elements of committing the offense. *United States v. Garcia-Martinez*, -- F.3d – 2017 WL

[1] The 2009 version provides: "[I]n the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a: (a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains; (b)Dwelling, and there is not another person in the dwelling at the time the offender enters or remains . . . ." Fla. Stat. § 810.02(3)(a)–(b).

		(citing *United States v. Matthews*, 466 F.3d 1271, 1274 (11th Cir. 2006)). **INA § 101(a)(43)(G): NO** Under the categorical approach, a conviction for burglary under **810.02(2)(b)** does not constitute a "burglary offense" within the meaning of INA § 101(a)(43)(G) because the FL statute is broader than the generic federal crime. (FL statute defines dwelling to include curtilage and conveyance). *See United States v. Esprit*, 841 F.3d 1235, 1241 (11th Cir. 2016) (finding that no conviction under the Florida burglary statute qualifies as generic burglary). **Crime of Violence under 18 U.S.C. § 16(b): NO,** the Supreme Court has held that 18 U.S.C. § 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). *Dimaya* thus overrules (b) (6) [redacted].	dwelling or residence involves a higher risk which "arises not from the simple physical act of wrongfully entering onto another's property, but rather from the possibility of a face-to-face confrontation between the burglar and a third party whether an occupant, a police officer, or a bystander who comes to investigate. *Id.* at 759. The Eleventh Circuit has recognized a high risk of danger inherent in residential burglaries. *Id.* at 759. *See United States v. Stitt*, No. 17-765, 2018 WL 6439818 (U.S. Dec. 2018): holding that the generic definition of burglary includes vehicles designed or adapted for overnight use. *But see Matter of* (b) (6) [redacted], 2017 WL 1951515 (BIA 2017): finding that conviction **under 810.02(1) and (4)** is not categorically a CIMT because intent to commit an underlying offense involving moral turpitude is not required for a conviction under the statute. Also finding that statute is **not divisible** because it is overbroad: it prohibits entering or remaining in a dwelling, structure, or conveyance with intent to commit an unspecified offense, but	104462 (11th Cir. Jan. 11, 2017). Also, because Florida's definition of a dwelling includes the residence plus the curtilage, it is broader than the generic definition. Thus, Florida's second degree burglary of a dwelling is **not categorically** a COV under § 2L1.2. **Violent Felony under ACCA , 18 U.S.C. § 924(e), enumerated-offense clause: NO** The Eleventh Circuit has held that Florida's burglary statute created a single indivisible crime, which is a non-generic burglary, such that the categorical approach applied, and no conviction under the statute could serve as an ACCA predicate offense. *See United States v. Esprit*, 841 F.3d 1235 (11th Cir. 2016); *see also United States v. Williams*, No. 14-10569 (Mar. 28, 2017) (vacating respondent's ACCA sentence because his three burglary convictions cannot serve as the predicate felonies), http://media.ca11.uscourts.gov/opinions/unpub/files/201410569.rem.pdf

			it does not list separate offense with distinct mens res, only some of which involve moral turpitude. (b) (5) [redacted]	**Crime of Violence under U.S.S.G. § 4B1.2 for Burglary of an Unoccupied Dwelling: YES** In *United States v. Matchett*, the Eleventh Circuit held that burglary of an unoccupied dwelling under Florida law does qualify under the residual clause. 802 F.3d 1185, 1197 (11th Cir. 2015), *cert. denied*, 137 S. Ct. 1344 (2017).

Fla. Stat. § 810.08: Trespass in Structure or Conveyance (effective June 26, 2000)

(1) Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.
(2)(a) Except as otherwise provided in this subsection, trespass in a structure or conveyance is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(b) If there is a human being in the structure or conveyance at the time the offender trespassed, attempted to trespass, or was in the structure or conveyance, the trespass in a structure or conveyance is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(c) If the offender is armed with a firearm or other dangerous weapon, or arms himself or herself with such while in the structure or conveyance, the trespass in a structure or conveyance is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he or she reasonably believes that a violation of this paragraph has been or is being committed, and he or she reasonably believes that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention by such person, if done in compliance with the requirements of this paragraph, shall not render such person criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.
(3) As used in this section, the term "person authorized" means any owner or lessee, or his or her agent, or any law enforcement officer whose department has received written authorization from the owner or lessee, or his or her agent, to communicate an order to depart the property in the case of a threat to public safety or welfare.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I) 237(a)(2)(A)	Third-degree felony: not exceed five years First-degree misdemeanor: not exceeding 1 year Second-degree misdemeanor: not exceeding 60 days		**MAYBE** The BIA has concluded that 810.08(2)(b) is not categorically a CIMT because (1) the trespass must take place in a structure or conveyance rather than a dwelling and (2) the trespass offense requires no attendant intent to commit a crime and because trespass under 810.08(2)(b) requires no attendant intent to commit a crime. Moreover, the BIA concluded that 810.08(2)(b) is not divisible because none of the listed offenses reaches conduct that involves moral turpitude. *See* (b) (5) [redacted]	

Fla. Stat. § 810.14: Voyeurism Prohibited; Penalties (effective October 1, 2014)

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent:
(a) Secretly observes another person when the other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.
(b) Secretly observes another person's intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling, structure, or conveyance. As used in this paragraph, the term "intimate area" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.
(2) A person who violates this section commits a misdemeanor of the first degree for the first violation, punishable as provided in s. 775.082 or s. 775.083.
(3) A person who violates this section and who has been previously convicted or adjudicated delinquent two or more times of any violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(4) For purposes of this section, a person has been previously convicted or adjudicated delinquent of a violation of this section if the violation resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I) 237(a)(2)(A)	810.14(2): first-degree misdemeanor: 1 year 810.14(3): if the person has been previously convicted two or more times: third-degree felony: 5 years		**MAYBE** The BIA has held that offenses requiring a lewd intent are morally turpitudinous. *See Matter of Medina*, 26 I&N Dec. 79, 83 (BIA 2013).	

COMPUTER-RELATED CRIMES – no case law

COUNTY AND MUNICIPAL PRISONERS

Fla. Stat. § 951.22: County Detention Facilities; Contraband Articles (effective July 1, 2016)

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12); any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.
(2) Whoever violates subsection (1) shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i) **Controlled Substance** 212(a)(2)(A)(i)(II), 237(a)(2)(B)(i)	Third-degree felony: 5 years		(b) (5) [redacted]	(b) (5) [redacted]

This section (section 2) of the chart is maintained and reviewed weekly by Corinne Berbaum, Judicial Law Clerk, corinne.berbaum@usdoj.gov, 305-808-9450.

			(b) (5) [redacted]	

CRIMINAL ANARCHY, TREASON, AND OTHER CRIMES AGAINST PUBLIC ORDER – no case law

CRIMINAL GANG ENFORCEMENT AND PREVENTION – no case law

DEFAMATION; LIBEL; THREATENING LETTERS AND SIMILAR OFFENSES – no case law

DISTURBING RELIGIOUS AND OTHER ASSEMBLIES – no case law

DRUG ABUSE PREVENTION AND CONTROL

Fla. Stat. § 893.13: Prohibited Acts; Penalties (effective July 1, 2016)

(1)(a) Except as authorized by this chapter and chapter 499, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, a person may not sell or deliver in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. A person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302.
2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(d) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private college, university, or other postsecondary educational institution. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(e) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 1,000 feet of a convenience business as defined in s. 812.171. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. As used in this section, the term "real property comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(g) Except as authorized by this chapter, a person may not manufacture methamphetamine or phencyclidine, or possess any listed chemical as defined in s. 893.033 in violation of s. 893.149 and with intent to manufacture methamphetamine or phencyclidine. If a person violates this paragraph and:

1. The commission or attempted commission of the crime occurs in a structure or conveyance where any child younger than 16 years of age is present, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 5 calendar years.

2. The commission of the crime causes any child younger than 16 years of age to suffer great bodily harm, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the defendant must be sentenced to a minimum term of imprisonment of 10 calendar years.

(h) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(2)(a) Except as authorized by this chapter and chapter 499, a person may not purchase, or possess with intent to purchase, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2. A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, a person may not purchase more than 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. A person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who delivers, without consideration, 20 grams or less of cannabis, as defined in this chapter, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. As used in this paragraph, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(4) Except as authorized by this chapter, a person 18 years of age or older may not deliver any controlled substance to a person younger than 18 years of age, use or hire a person younger than 18 years of age as an agent or employee in the sale or delivery of such a substance, or use such person to assist in avoiding detection or apprehension for a violation of this chapter. A person who violates this paragraph with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any other controlled substance, except as lawfully sold, manufactured, or delivered, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, and the person so convicted may not be placed on probation.

(5) A person may not bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. A person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c) 4. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c) 1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a) A person may not be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. A person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the offense is the possession of 20 grams or less of cannabis, as defined in this chapter, the person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. As used in this subsection, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.
(c) Except as provided in this chapter, a person may not possess more than 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. A person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(d) If the offense is possession of a controlled substance named or described in s. 893.03(5), the person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.
(e) Notwithstanding any provision to the contrary of the laws of this state relating to arrest, a law enforcement officer may arrest without warrant any person who the officer has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.

(7)(a) A person may not:
1. Distribute or dispense a controlled substance in violation of this chapter.
2. Refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.
3. Refuse entry into any premises for any inspection or refuse to allow any inspection authorized by this chapter.
4. Distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.
5. Keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.
6. Use to his or her own personal advantage, or reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.
7. Possess a prescription form unless it has been signed by the practitioner whose name appears printed thereon and completed. This subparagraph does not apply if the person in possession of the form is the practitioner whose name appears printed thereon, an agent or employee of that practitioner, a pharmacist, or a supplier of prescription forms who is authorized by that practitioner to possess those forms.
8. Withhold information from a practitioner from whom the person seeks to obtain a controlled substance or a prescription for a controlled substance that the person making the request has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the previous 30 days.
9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.
10. Affix any false or forged label to a package or receptacle containing a controlled substance.
11. Furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.
12. Store anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia or is not constructed in accordance with sound engineering, agricultural, or commercial practices.
13. With the intent to obtain a controlled substance or combination of controlled substances that are not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtain or attempt to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this subparagraph, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner or as described in subparagraph 8.
(b) A health care practitioner, with the intent to provide a controlled substance or combination of controlled substances that are not medically necessary to his or her patient or an amount of controlled substances that is not medically necessary for his or her patient, may not provide a controlled substance or a prescription for a

controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this paragraph, a material fact includes whether the patient has an existing prescription for a controlled substance issued for the same period of time by another practitioner or as described in subparagraph (a)8.
(c) A person who violates subparagraphs (a)1.-6. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except that, upon a second or subsequent violation, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(d) A person who violates subparagraphs (a)7.-12. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(e) A person or health care practitioner who violates the provisions of subparagraph (a)13. or paragraph (b) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if any controlled substance that is the subject of the offense is listed in Schedule II, Schedule III, or Schedule IV.

(8)(a) Notwithstanding subsection (9), a prescribing practitioner may not:
1. Knowingly assist a patient, other person, or the owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practice of the prescribing practitioner's professional practice;
2. Employ a trick or scheme in the practice of the prescribing practitioner's professional practice to assist a patient, other person, or the owner of an animal in obtaining a controlled substance;
3. Knowingly write a prescription for a controlled substance for a fictitious person; or
4. Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing such prescription is to provide a monetary benefit to, or obtain a monetary benefit for, the prescribing practitioner.
(b) If the prescribing practitioner wrote a prescription or multiple prescriptions for a controlled substance for the patient, other person, or animal for which there was no medical necessity, or which was in excess of what was medically necessary to treat the patient, other person, or animal, that fact does not give rise to any presumption that the prescribing practitioner violated subparagraph (a)1., but may be considered with other competent evidence in determining whether the prescribing practitioner knowingly assisted a patient, other person, or the owner of an animal to obtain a controlled substance in violation of subparagraph (a)1.
(c) A person who violates paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(d) Notwithstanding paragraph (c), if a prescribing practitioner has violated paragraph (a) and received $1,000 or more in payment for writing one or more prescriptions or, in the case of a prescription written for a controlled substance described in s. 893.135, has written one or more prescriptions for a quantity of a controlled substance which, individually or in the aggregate, meets the threshold for the offense of trafficking in a controlled substance under s. 893.135, the violation is reclassified as a felony of the second degree and ranked in level 4 of the Criminal Punishment Code.

(9) The provisions of subsections (1)-(8) are not applicable to the delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by, persons included in any of the following classes, or the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties:
(a) Pharmacists.
(b) Practitioners.
(c) Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.
(d) Hospitals that procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.
(e) Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.
(f) Common carriers.
(g) Manufacturers, wholesalers, and distributors.
(h) Law enforcement officers for bona fide law enforcement purposes in the course of an active criminal investigation.

(10) If a person violates any provision of this chapter and the violation results in a serious injury to a state or local law enforcement officer as defined in s. 943.10, firefighter as defined in s. 633.102, emergency medical technician as defined in s. 401.23, paramedic as defined in s. 401.23, employee of a public utility or an electric utility as defined in s. 366.02, animal control officer as defined in s. 828.27, volunteer firefighter engaged by state or local government, law enforcement officer employed by the Federal Government, or any other local, state, or Federal Government employee injured during the course and scope of his or her employment, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the injury sustained results in death or great bodily harm, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) **Controlled Substance** 212(a)(2)(C), 237(a)(2)(B)(i) **PSC** 241(b)(3)	893.13(1)(a)(1): second-degree felony : 15 years 893.13(1)(a)(2): third-degree felony: 5 years 893.13(6)(a): third-degree felony: 5 years	**Illicit Trafficking under Controlled Substance Act § 102: 893.13(1)(a) Divisible** Applying the categorical approach, the Eleventh Circuit concluded that the statutory text delineated six discrete alternative elements: a person may not sell, manufacturer, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. *Gordon v. U.S. Att'y Gen.*, No. 15-13846, --- F.3d --- at *6, 2017 WL 2918835 (11th Cir. 2017). Additionally, under Florida law, sale and delivery are separate offense with separate definitions, and "[d]elivery, unlike sale, does not include an element of consideration, and thus, a conviction for delivery of a controlled substance under 893.13(1)(a) does not qualify as an aggravated felony." *Id.* at *7. Thus, applying the modified categorical approach, the Court concluded that Petitioner's record of conviction does not disclose whether Petitioner was convicted	**MAYBE – 893.13(1)** Evil intent is inherent in the sale and distribution of a controlled substance, making such offenses categorically a CIMT. *Matter of Khourn*, 21 I&N Dec. 1041, 1046 (BIA 1997). A court could find that manufacturing a controlled substance involved reprehensible conduct. The BIA has found that, under 893.13(1)(a), a person could potentially be convicted of manufacturing only a small amount of a controlled substance for personal use or with no remuneration. *See Matter of L-G-H-*, 26 I&N Dec. 365, 372 (BIA 2014). However, manufacturing a controlled substance is a more serious crime than merely possessing that controlled substance. *See United States v. Carroll*, 6 F.3d 735, 741 (11th Cir. 1993) (finding that conspiracy to manufacture is a more serious crime than simple possession).	**893.13(1) is both a "serious drug offense," 18 U.S.C. § 924(e)(2)(A), and a "controlled substance offense," U.S.S.G. § 4B1.2(b).** *United States v. Smith*, 775 F.3d 1262, 1268 (11th Cir. 2014); *Bula Lopez v. U.S. Att'y Gen.*, No. 17-15179 at *16–17 (11th Cir. Nov. 21, 2018) (finding that possession with intent to deliver Flunitrazepam was a controlled substance violation where the drug was listed in Scheduled IV at 21 8 C.F.R. § 1308.14(c)(23)). Neither definition requires that a predicate state offense includes an element of *mens rea* with respect to the illicit nature of the controlled substance. *Id.*; *see also Brown v. United States*, No. 8:14-cv-44-T-27AAS, 2017

		for violating the element of sale or for violating the element of delivery. *See id.* at *7–8. **Illicit Trafficking under Controlled Substance Act § 102: YES – 893.13(1)(a)(1)** An offense under 893.13(1)(a) is an AGG FEL under the broader "illicit trafficking" component. *See Matter of L-G-H-*, 26 I&N Dec. 365, 365 (BIA 2014) (concluding that based on the record, conviction for sale of cocaine under 893.13(1)(a)(1) is an AGG FEL as defined by INA § 101(a)(43)(B)). Section 893.13(1)(a)(1) lacks a mens rea element with respect to the illicit nature of the substance but requires knowledge of its presence and includes an affirmative defense for ignorance of its unlawful nature. *See id.*; *see also Choizilme v. U.S. Att'y Gen.*, -- F.3d --, 2018 WL 1545548 (11th Cir. 2018) (deferring to the BIA's decision in *L-G-H-*). **893.13(1)(a)(1) is divisible**; therefore, court must employ the modified categorical approach to determine whether conviction is AGG FEL. *Spaho v. U.S. Att'y Gen.*, 837 F.3d 1172, 1177 (11th Cir. 2016) (concluding that Spaho was adjudged guilty of selling a controlled substance; therefore, his conviction qualifies because the state provision,	Manufacturing is also punished more harshly than mere possession. *Compare* Fla. Stat. §§ 893.03(2)(a)(4), 893.13(1)(a)(1) (defining manufacturing cocaine as a *second-degree felony*) *and* Fla. Stat. § 775.082(3)(c) (punishing a second degree felony with a term of imprisonment not to exceed *fifteen years*), *with* Fla. Stat. § 893.13(6)(a) (defining possession as a *third-degree felony*) *and* Fla. Stat. § 775.082(3)(d) (punishing a third degree felony with a term of imprisonment not to exceed *five years*). (b) (5) [redacted]	WL 942113, at *2–3 (M.D. Fla. Mar. 9, 2017); *United States v. Foster*, No. 1:11-CR-17, 2016 WL 8608480 (N.D. Fla. Nov. 14, 2016); *Bailey v. United States*, No. 6:14-CV-769-Orl-36GJK, 2015 WL 12806536 (M.D. Fla. Dec. 9, 2015); *Youngblood v. United States*, No. 8:15-cv-67-T-17AEP, 2015 WL 12766131 (M.D. Fla. Sept. 23, 2015). **Simple possession under U.S.S.G. § 2L1.2:** *United States v. Aguilar–Ortiz*, 450 F.3d 1271, 1275 (11th Cir. 2006) (concluding that solicitation of a personal quantity of a drug, which is essentially attempted possession without the intent to distribute, is not a "drug trafficking offense" under § 2L1.2(b)(1)(B)). (b) (5) [redacted]

		when read to include only the sale crime and not the other alternative crimes, falls within the generic "illicit trafficking" offense).[2] Under the modified categorical approach, "[t]wo of the alternative elements of § 893.13(1)(a), sale and possession with intent to sell, are inherently commercial and qualify under the definition of an illicit trafficking aggravated felony while the other four alternatives may not be commercial and may not qualify." *Id.* **Illicit Trafficking under Controlled Substance Act § 102: YES – 893.13(1)(a)(2)** The BIA has found that conviction for **sale of cannabis** under 893.13(1)(a)(2) was an illicit trafficking/AGG FEL because it is a felony and is defined by elements that require the offender to have engaged in "unlawful trading or dealing" in a federally controlled substance. *See Matter of* (b) (5) [redacted] (*citing Matter of Davis*, 20 I&N Dec. 536, 541 (BIA 1992); *Matter of Flores*, 26 I&N Dec. 155, 157 (BIA 2013)). Specifically, the respondent's Florida		**893.13(6)(a) is divisible by the identity of the drug possessed and may be an offense "relating to a controlled substance."** *Guillen v. U.S. Att'y Gen.*, 2018 WL 6565918 (Dec. 13, 2018).

[2] The Eleventh Circuit HAS found that a 1986 conviction for Fla. Stat. 893.13 constituted an AGG FEL. *See Fequiere v. Ashcroft*, 279 F.3d 1325, 1327 n.3 (11th Cir. 2002); *see also Matter of* (b) (5), (b) (6) [redacted]

		conviction of Sale of Cannabis establishes that he was engaged in "unlawful trading or dealing" activity, i.e., unlawful "commercial" conduct rather than casual sharing. **Drug Trafficking under 18 U.S.C. § 924(c): YES – 893.13(1)(a)** Possession with intent to distribute, which the Court found was equivalent to intent to deliver, Flunitrazepam is a federal crime under the CSA punishable by over a year's imprisonment and therefore, a conviction for possession of a Schedule IV substance under Fla. Stat. § 893.13(1)(a) with intent to deliver is a drug trafficking aggravated felony. *See Bula Lopez v. U.S. Att'y Gen.*, No. 17-15179 at *18–19 (11th Cir. Nov. 21, 2018) (citing 21 U.S.C. § 841(a)(1)). **Drug Trafficking under 18 U.S.C. § 924(c): NO – 893.13(1)(a)(2)** 893.13(1)(a)(2), as amended by 893.101, is not a "drug trafficking crime," as defined in 18 U.S.C. § 924(c)(2), and therefore is not a "drug trafficking aggravated felony" for purposes of INA § 101(a)(43)(B). *Donawa v. U.S. Att'y Gen.*, 735 F.3d 1275 (11th Cir. 2013). Under the categorical approach, because the federal analogue, 21 U.S.C. § 841(a)(1), to the Florida controlled substance offense		

		"requires the government to establish, beyond a reasonable doubt and without exception, that the defendant had knowledge of the nature of the substance in his possession," and 893.13(1)(a)(2), as amended by 893.101, does not qualify as a drug trafficking aggravated felony under the categorical approach. **893.13(1)(a)(2) is indivisible;** therefore, court may *only* employ the categorical approach. (b) (5) [redacted]		

Fla. Stat. § 893.135: Trafficking; Mandatory Sentences; Suspension or Reduction of Sentences; Conspiracy to Engage in Trafficking (effective July 1, 2016)

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 25 pounds of cannabis, or 300 or more cannabis plants, commits a felony of the first degree, which felony shall be known as "trafficking in cannabis," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $25,000.
2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $50,000.
3. Is 10,000 pounds or more, or is 10,000 or more cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a "cannabis plant" if it has some readily observable evidence of root formation, such as root hairs. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a "cannabis plant" or in the charging of an offense under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

(b) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a) 4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.
b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.
c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a) 4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result, such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a) 4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c) 1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c) 3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $500,000.

2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of hydrocodone, or any salt, derivative, isomer, or salt of an isomer thereof, or 14 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 50 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 200 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, or any salt, derivative, isomer, or salt of an isomer thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

4. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c) 3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result, such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

5. A person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c) 3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of a person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(d) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death of any person commits capital importation of phencyclidine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(e) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as "trafficking in methaqualone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 25 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 50 kilograms or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), and who knows that the probable result of such importation would be the death of any person commits capital importation of methaqualone, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of **amphetamine,** as described in s. 893.03(2)(c) 2., or methamphetamine, as described in s. 893.03(2)(c) 4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c) 2., or methamphetamine, as described in s. 893.03(2)(c) 4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(g) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as "trafficking in flunitrazepam," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result, such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(h) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or any mixture containing gamma-hydroxybutyric acid (GHB), commits a felony of the first degree, which felony shall be known as "trafficking in gamma-hydroxybutyric acid (GHB)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of gamma-hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or any mixture containing gamma-hydroxybutyric acid (GHB), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-hydroxybutyric acid (GHB), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(i) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), commits a felony of the first degree, which felony shall be known as "trafficking in gamma-butyrolactone (GBL)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 kilograms or more but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly manufactures or brings into the state 150 kilograms or more of gamma-butyrolactone (GBL), as described in s. 893.03(1)(d), or any mixture containing gamma-butyrolactone (GBL), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of gamma-butyrolactone (GBL), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(j) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 kilogram or more of 1,4-Butanediol as described in s. 893.03(1)(d), or of any mixture containing 1,4-Butanediol, commits a felony of the first degree, which felony shall be known as "trafficking in 1,4-Butanediol," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 kilogram or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 kilograms or more, but less than 10 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 10 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $500,000.

2. Any person who knowingly manufactures or brings into this state 150 kilograms or more of 1,4-Butanediol as described in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of 1,4-Butanediol, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(k) 1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s. 893.03(1)(c):

a. (MDMA) 3,4-Methylenedioxymethamphetamine;

b. DOB (4-Bromo-2,5-dimethoxyamphetamine);

c. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine);

d. 2,5-Dimethoxyamphetamine;

e. DOET (4-Ethyl-2,5-dimethoxyamphetamine);
f. N-ethylamphetamine;
g. 3,4-Methylenedioxy-N-hydroxyamphetamine;
h. 5-Methoxy-3,4-methylenedioxyamphetamine;
i. PMA (4-methoxyamphetamine);
j. PMMA (4-methoxymethamphetamine);
k. DOM (4-Methyl-2,5-dimethoxyamphetamine);
l. MDEA (3,4-Methylenedioxy-N-ethylamphetamine);
m. MDA (3,4-Methylenedioxyamphetamine);
n. N,N-dimethylamphetamine;
o. 3,4,5-Trimethoxyamphetamine;
p. Methylone (3,4-Methylenedioxymethcathinone);
q. MDPV (3,4-Methylenedioxypyrovalerone); or
r. Methylmethcathinone,

individually or analogs thereto or isomers thereto or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-r., commits a felony of the first degree, which felony shall be known as "trafficking in Phenethylamines," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:
a. Is 10 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.
b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.
c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $250,000.

3. A person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(c):
a. MDMA (3,4-Methylenedioxymethamphetamine);
b. DOB (4-Bromo-2,5-dimethoxyamphetamine);
c. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine);
d. 2,5-Dimethoxyamphetamine;
e. DOET (4-Ethyl-2,5-dimethoxyamphetamine);
f. N-ethylamphetamine;
g. N-Hydroxy-3,4-methylenedioxyamphetamine;
h. 5-Methoxy-3,4-methylenedioxyamphetamine;
i. PMA (4-methoxyamphetamine);
j. PMMA (4-methoxymethamphetamine);
k. DOM (4-Methyl-2,5-dimethoxyamphetamine);
l. MDEA (3,4-Methylenedioxy-N-ethylamphetamine);
m. MDA (3,4-Methylenedioxyamphetamine);
n. N,N-dimethylamphetamine;
o. 3,4,5-Trimethoxyamphetamine;
p. Methylone (3,4-Methylenedioxymethcathinone);
q. MDPV (3,4-Methylenedioxypyrovalerone); or

r. Methylmethcathinone,

individually or analogs thereto or isomers thereto or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-r., and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(*l*) 1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 gram or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or of any mixture containing lysergic acid diethylamide (LSD), commits a felony of the first degree, which felony shall be known as "trafficking in lysergic acid diethylamide (LSD)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 gram or more, but less than 5 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 grams or more, but less than 7 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 7 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $500,000.

2. Any person who knowingly manufactures or brings into this state 7 grams or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or any mixture containing lysergic acid diethylamide (LSD), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of lysergic acid diethylamide (LSD), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum term of imprisonment.

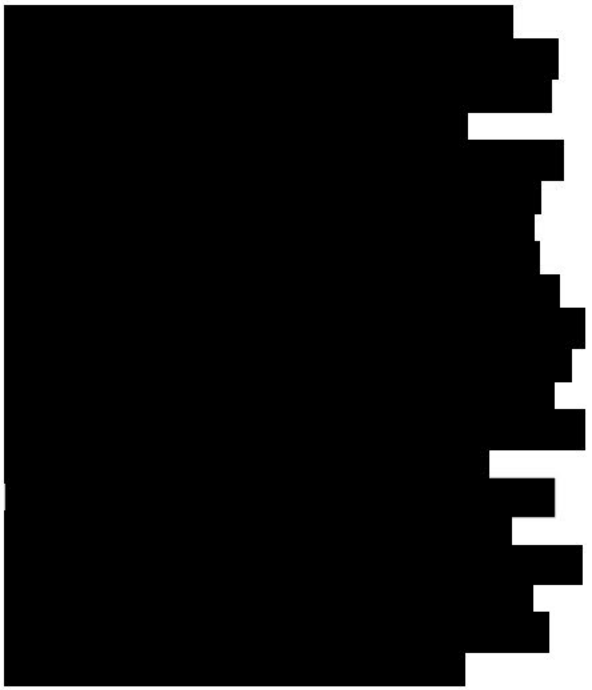
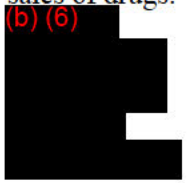
(4) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the defendant rendered such substantial assistance.

(5) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) commits a felony of the first degree and is punishable as if he or she had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

(6) A mixture, as defined in s. 893.02, containing any controlled substance described in this section includes, but is not limited to, a solution or a dosage unit, including but not limited to, a gelatin capsule, pill, or tablet, containing a controlled substance. For the purpose of clarifying legislative intent regarding the weighing of a mixture

containing a controlled substance described in this section, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture.

(7) For the purpose of further clarifying legislative intent, the Legislature finds that the opinion in *Hayes v. State*, 750 So. 2d 1 (Fla. 1999) does not correctly construe legislative intent. The Legislature finds that the opinions in *State v. Hayes*, 720 So. 2d 1095 (Fla. 4th DCA 1998) and *State v. Baxley*, 684 So. 2d 831 (Fla. 5th DCA 1996) correctly construe legislative intent.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) **Controlled Substance** 237(a)(2)(B)(i)	Capital felony: Life imprisonment or death First-degree felony: 30 years Second-degree felony: 15 years Third-degree felony: 5 years	**Illicit Trafficking under Controlled Substances Act § 102: NO – 893.135(1)(b)** Section 893.135(1)(b) is overbroad and not divisible. *See Cintron v. U.S. Att'y Gen.*, 882 F.3d 1380 (11th Cir. 2018). Relying on the holding in *Cintron*, the Eleventh Circuit held in a published decision that a conviction under 893.135(1)(b) is not an aggravated felony. *Francisco v. U.S. Att'y Gen.*, -- F.3d --, 2018 WL 1249998 (11th Cir. 2018). **Illicit Trafficking under Controlled Substances Act: NO – 893.135(1)(c)** The 11th Circuit held in a published decision that section 893.135(1)(c) of the Florida Statutes is not an aggravated felony under INA § 101(43)(B), as the statute is overbroad and indivisible. *Cintron v. U.S. Att'y Gen.*, 882 F.3d 1380 (11th Cir. 2018). **Illicit Trafficking Under Controlled Substances Act: MAYBE – 893.135(1)(a)** The Eleventh Circuit indicated in *Cintron* that subsection (1)(c) of section 893.135 of the Florida	(b) (5) [redacted] 	**Particularly Serious Crime** **MAYBE** The BIA found that a conviction for Fla. Stat. § 893.135(1)(b)1 a amounted to a PSC when the respondent was sentenced to 25 years' imprisonment and admitted to significant sales of drugs. (b) (6) [redacted] 

		Statutes is "structured identically" to subsection (1)(b). *Cintron v. U.S. Att'y Gen.*, 882 F.3d 1380, 1386 n. 7 (11th Cir. 2018). Subsection (1)(a) is also similarly structured. As a result, the reasoning in that case, finding that a conviction under 893.135(1)(c) was not an aggravated felony, may also be extended to subsection (1)(a). **Illicit Trafficking Under Controlled Substances Act: MAYBE – 893.135(1)(f)** The Eleventh Circuit held in an unpublished decision that section 893.135(1)(f) of the Florida Statutes (for trafficking in methamphetamine) was not an aggravated felony under INA § 101(a)(43)(B). It held that because subsection (1)(f) is "substantially identical" to (1)(c), and the Eleventh Circuit has held that (1)(c) is neither divisible nor a categorical match to a federal crime under the INA (meaning it is not an aggravated felony), subsection (1)(f) is not an aggravated felony. *See Porter v. U.S. Att'y Gen.*, -- Fed. App'x --, 2018 WL 1768209 (11th Cir. Apr. 12, 2018) (citing *Cintron v. U.S. Att'y Gen.*, 882 F.3d 1380 (11th Cir. 2018) and *Francisco v. U.S. Att'y Gen.*, 884 F.3d 1120 (11th Cir. 2018)). (b) (5) [redacted]		[redacted]

Fla. Stat. § 893.147: Use, Possession, Manufacture, Delivery, Transportation, Advertisement, or Retail Sale of Drug Paraphernalia (effective July 1, 2016)

(1) Use or possession of drug paraphernalia.--It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia:
(a) To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this chapter; or
(b) To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(2) Manufacture or delivery of drug paraphernalia.--It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used:
(a) To plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of this act; or
(b) To inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this act.
Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) Delivery of drug paraphernalia to a minor.--
(a) Any person 18 years of age or over who violates subsection (2) by delivering drug paraphernalia to a person under 18 years of age is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) It is unlawful for any person to sell or otherwise deliver hypodermic syringes, needles, or other objects which may be used, are intended for use, or are designed for use in parenterally injecting substances into the human body to any person under 18 years of age, except that hypodermic syringes, needles, or other such objects may be lawfully dispensed to a person under 18 years of age by a licensed practitioner, parent, or legal guardian or by a pharmacist pursuant to a valid prescription for same.
Any person who violates the provisions of this paragraph is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(4) Transportation of drug paraphernalia.--It is unlawful to use, possess with the intent to use, or manufacture with the intent to use drug paraphernalia, knowing or under circumstances in which one reasonably should know that it will be used to transport:
(a) A controlled substance in violation of this chapter; or
(b) Contraband as defined in s. 932.701(2)(a) 1.
Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(5) Advertisement of drug paraphernalia.--It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(6) Retail sale of drug paraphernalia.--
(a) It is unlawful for a person to knowingly and willfully sell or offer for sale at retail any drug paraphernalia described in s. 893.145(12)(a)-(c) or (g)-(m), other than a pipe that is primarily made of briar, meerschaum, clay, or corn cob.
(b) A person who violates paragraph (a) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and, upon a second or subsequent violation, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
Controlled Substance 237(a)(2)(B)(i) **Controlled Substance** 212(a)(2)(A)(i)(II)	Second-degree felony: 15 years Third-degree felony: 5 years First-degree misdemeanor: 1 year		(b) (5) [redacted]	**Possession of drug paraphernalia MAY constitute a conviction "relating to a controlled substance"** The Eleventh Circuit has disagreed with respondents' arguments that possession of drug paraphernalia is not a criminal violation "relating to a controlled substance" because he could have used the drug paraphernalia with *any* controlled substance, not with a specific controlled substance. However, it appears that the 11th Circuit came to this conclusion because the respondent's argument was thinly veiled. *See Ivarez Acosta v. U.S. Att'y Gen.*, 524 F.3d 1191, 1196 (11th Cir. 2008). The **Supreme Court** has outlined the two prongs that must be satisfied for a respondent to be removable for a drug paraphernalia crime under 8 U.S.C. § 1227(a)(2)(B)(i): (1) the drug paraphernalia at issue must be created or designed for the purpose of using a controlled substance, and (2) the drug paraphernalia must relate to a controlled substance under section 802 of Title 21. *Mellouli v. Lynch*, 135 S. Ct .190 1989–90 (2015). (b) (5) [redacted]

				(b) (5) [redacted]

DRUNKENNESS; OPEN HOUSE PARTIES; LOITERING; PROWLING; DESERTION

Fla. Stat. § 856.021: Loitering or Prowling; Penalty (effective July 1, 1997)

(1) It is unlawful for any person to loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.
(2) Among the circumstances which may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.
(3) Any person violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	Second-degree misdemeanor: 60 days		(b) (5) [redacted]	

[3] To obtain a conviction under this statute, the prosecution must prove two elements: (1) that the defendant loitered or prowled in a place, at a time, or in a manner not usual for law-abiding individuals, and (2) that such loitering and prowling was under circumstances that warranted justifiable and reasonable alarm or immediate concern for safety of persons or property in the vicinity. *See Grant v. State*, 854 So. 2d 240, 242 (Fla. Dist. Ct. App. 2003); *Gonzalez v. State*, 828 So. 2d 496, 497 (Fla. Dist. Ct. App. 2002); *see also* Fla. Standard Jury Instr. (Crim.) 29.7.

			(b) (5) [redacted]	

[4] An individual may be charged under 856.021 if the arresting police officer objectively perceives that the individual may imminently harm other individuals or property.
(b) (5) [redacted]

REEMPLOYMENT ASSISTANCE

Fla. Stat. § 443.071: Penalties(effective July 1, 2012)

(1) Any person who makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact to obtain or increase any benefits or other payment under this chapter or under an employment security law of any other state, of the Federal Government, or of a foreign government, either for herself or himself or for any other person, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each false statement or representation or failure to disclose a material fact constitutes a separate offense.

(2) Any employing unit or any officer or agent of any employing unit or any other person who makes a false statement or representation, knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled to benefits, to avoid becoming or remaining subject to this chapter, or to avoid or reduce any contribution, reimbursement, or other payment required from an employing unit under this chapter commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any employing unit or any officer or agent of any employing unit or any other person who fails to furnish any reports required under this chapter or to produce or permit the inspection of or copying of records as required under this chapter, who fails or refuses, within 6 months after written demand by the Department of Economic Opportunity or its tax collection service provider, to keep and maintain the payroll records required by this chapter or by rule of the department or the state agency providing tax collection services, or who willfully fails or refuses to make any contribution, reimbursement, or other payment required from an employer under this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Any person who establishes a fictitious employing unit by submitting to the Department of Economic Opportunity or its tax collection service provider fraudulent employing unit records or tax or wage reports by the introduction of fraudulent records into a computer system, the intentional or deliberate alteration or destruction of computerized information or files, or the theft of financial instruments, data, and other assets, for the purpose of enabling herself or himself or any other person to receive benefits under this chapter to which such person is not entitled, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) In any prosecution or action under this section, the entry into evidence of the signature of a person on a document, letter, or other writing constitutes prima facie evidence of the person's identity if the following conditions exist:

(a) The document includes the person's name, residence address, and social security number.
(b) The signature of the person is witnessed by an agent or employee of the Department of Economic Opportunity or its tax collection service provider at the time the document, letter, or other writing is filed.

(6) The entry into evidence of an application for reemployment assistance benefits initiated by the use of the Internet claims program or the interactive voice response system telephone claims program of the Department of Economic Opportunity constitutes prima facie evidence of the establishment of a personal benefit account by or for an individual if the following information is provided: the applicant's name, residence address, date of birth, social security number, and present or former place of work.

(7) The entry into evidence of a transaction history generated by a personal identification number, password, or other identifying code used by the department in establishing that a certification or claim for one or more weeks of benefits was made against the benefit account of the individual, together with documentation that payment was paid by a state warrant made to the order of the person, direct deposit via electronic means, or department-issued debit card, constitutes prima facie evidence that the person claimed and received reemployment assistance benefits from the state.

(8) All records relating to investigations of reemployment assistance fraud in the custody of the Department of Economic Opportunity or its tax collection service provider are available for examination by the Department of Law Enforcement, the state attorneys, or the Office of the Statewide Prosecutor in the prosecution of offenses under s. 817.568 or in proceedings brought under this chapter.				
Possible Charge of Removability	**Maximum Sentence**	**Aggravated Felony?**	**Crime Involving Moral Turpitude?**	**Others?**
CIMT 212(a)(2)(A)(i)(I)	443.071(1): Third-degree felony: 5 years		**MAYBE** The BIA has held that 443.071(1) is a CIMT. *See Matter of Samara-Saleh*, A (b) (6) (b) (5)	

FORGERY AND COUNTERFEITING

Fla. Stat. § 831.01: Forgery and Counterfeiting (effective 1973)

Whoever falsely makes, alters, forges or counterfeits a public record, or a certificate, return or attestation of any clerk or register of a court, public register, notary public, town clerk or any public officer, in relation to a matter wherein such certificate, return or attestation may be received as a legal proof; or a charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange or promissory note, or an order, acquaintance, or discharge for money or other property, or an acceptance of a bill of exchange or promissory note for the payment of money or any receipt for money, goods or other property, or any passage ticket, pass or other evidence of transportation issued by a common carrier, with intent to injure or defraud any person, shall be guilty of a felony of the third degree.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I)	Third-degree felony: 5 years		(b) (5) [redacted]	

Fla. Stat. § 831.02: Uttering Forged Instruments (effective 1971)

Whoever utters and publishes as true a false, forged or altered record, deed, instrument or other writing mentioned in section 831.01 knowing the same to be false, altered, forged or counterfeited, with intent to injure or defraud any person, shall be guilty of a felony of the third degree.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I) **AGG FEL** 237(a)(2)(A)(iii) 101(a)(43)(M)	Third-degree felony: 5 years	**YES** Florida offense of uttering a forged instrument is categorically an aggravated offense under INA § 101(a)(43)(M). *See Walker v. U.S. Att'y Gen.*, 783 F.3d 1226, 1228 (11th Cir. 2015) (concluding that the generic definition of "aggravated felony" requires proof of "fraud or deceit" and the Florida statute makes fraud or deceit an element of the offense).	**YES** Florida offense of uttering a forged instrument is a CIMT. *See Walker v. U.S. Att'y Gen.*, 783 F.3d 1226, 1229 (11th Cir. 2015) (holding that uttering a forged instrument is a crime of moral turpitude because it involves deceit and is "behavior that runs contrary to accepted societal duties and involves dishonest or fraudulent activity"); *see also* (b) (6) [redacted] (citing *Walker*, 783 F.3d at 1226).	

Fla. Stat. § 831.09: Uttering Forged Bills, Checks, Drafts, or Notes (effective July 1, 2001)

Whoever utters or passes or tenders in payment as true, any such false, altered, forged, or counterfeit note, or any bank bill, check, draft, or promissory note, payable to the bearer thereof or to the order of any person, issued as aforesaid, knowing the same to be false, altered, forged, or counterfeit, with intent to injure or defraud any person, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 237(a)(2)(A)(ii)	Third-degree felony: 5 years		**MAYBE YES** An unpublished decision from the BIA indicated that section 831.09 of the Florida Statutes is categorically a CIMT, based on the language of the statute closely following that of section 831.02 of the Florida Statutes, which the Eleventh Circuit has held is categorically a CIMT. *Matter of* (b) (6) [redacted], 2016 WL 8471189, at *2–3 (BIA Dec. 16, 2016) (citing *Walker v. U.S. Att'y Gen.*, 783 F.3d 1226, 1229 (11th Cir. 2015)).	

FRAUDULENT PRACTICES

Fla. Stat. § 817.568: Criminal use of Personal Identification Information (effective October 1, 2016)

(2)(a) Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning another person without first obtaining that person's consent, commits the offense of fraudulent use of personal identification information, which is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Any person who willfully and without authorization fraudulently uses personal identification information concerning a person without first obtaining that person's consent commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $5,000 or more or if the person fraudulently uses the personal identification information of 10 or more persons, but fewer than 20 persons, without their consent. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 3 years' imprisonment.
(c) Any person who willfully and without authorization fraudulently uses personal identification information concerning a person without first obtaining that person's consent commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $50,000 or more or if the person fraudulently uses the personal identification information of 20 or more persons, but fewer than 30 persons, without their consent. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 5 years' imprisonment. If the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $100,000 or more, or if the person fraudulently uses the personal identification information of 30 or more persons without their consent, notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 10 years' imprisonment.

(3) Neither paragraph (2)(b) nor paragraph (2)(c) prevents a court from imposing a greater sentence of incarceration as authorized by law. If the minimum mandatory terms of imprisonment imposed under paragraph (2)(b) or paragraph (2)(c) exceed the maximum sentences authorized under s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment under paragraph (2)(b) or paragraph (2)(c) are less than the sentence that could be imposed under s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, the sentence imposed by the court must include the mandatory minimum term of imprisonment as required by paragraph (2)(b) or paragraph (2)(c).

(4) Any person who willfully and without authorization possesses, uses, or attempts to use personal identification information concerning a person without first obtaining that person's consent, and who does so for the purpose of harassing that person, commits the offense of harassment by use of personal identification information, which is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) If an offense prohibited under this section was facilitated or furthered by the use of a public record, as defined in s. 119.011, the offense is reclassified to the next higher degree as follows:
(a) A misdemeanor of the first degree is reclassified as a felony of the third degree.
(b) A felony of the third degree is reclassified as a felony of the second degree.
(c) A felony of the second degree is reclassified as a felony of the first degree.

For purposes of sentencing under chapter 921 and incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 of the felony offense committed, and a misdemeanor offense that is reclassified under this subsection is ranked in level 2 of the offense severity ranking chart in s. 921.0022.
(6) Any person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is younger than 18 years of age or 60 years of age or older without first obtaining the consent of that individual or of his or her legal guardian commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(7) Any person who is in the relationship of parent or legal guardian, or who otherwise exercises custodial authority over an individual who is younger than 18 years of age or 60 years of age or older, who willfully and fraudulently uses personal identification information of that individual commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(8)(a) Any person who willfully and fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning a deceased individual or dissolved business entity commits the offense of fraudulent use or possession with intent to use personal identification information of a deceased individual or dissolved business entity, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Any person who willfully and fraudulently uses personal identification information concerning a deceased individual or dissolved business entity commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of injury or fraud perpetrated is $5,000 or more, or if the person fraudulently uses the personal identification information of 10 or more but fewer than 20 deceased individuals or dissolved business entities. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 3 years' imprisonment.
(c) Any person who willfully and fraudulently uses personal identification information concerning a deceased individual or dissolved business entity commits the offense of aggravated fraudulent use of the personal identification information of multiple deceased individuals or dissolved business entities, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of injury or fraud perpetrated is $50,000 or more, or if the person fraudulently uses the personal identification information of 20 or more but fewer than 30 deceased individuals or dissolved business entities. Notwithstanding any other provision of law, the court shall sentence any person convicted of the offense described in this paragraph to a minimum mandatory sentence of 5 years' imprisonment. If the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $100,000 or more, or if the person fraudulently uses the personal identification information of 30 or more deceased individuals or dissolved business entities, notwithstanding any other provision of law, the court shall sentence any person convicted of an offense described in this paragraph to a mandatory minimum sentence of 10 years' imprisonment.
(9) Any person who willfully and fraudulently creates or uses, or possesses with intent to fraudulently use, counterfeit or fictitious personal identification information concerning a fictitious person, or concerning a real person without first obtaining that real person's consent, with intent to use such counterfeit or fictitious personal identification information for the purpose of committing or facilitating the commission of a fraud on another person, commits the offense of fraudulent creation or use, or possession with intent to fraudulently use, counterfeit or fictitious personal identification information, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(10) Any person who commits an offense described in this section and for the purpose of obtaining or using personal identification information misrepresents himself or herself to be a law enforcement officer; an employee or representative of a bank, credit card company, credit counseling company, or credit reporting agency; or any person who wrongfully represents that he or she is seeking to assist the victim with a problem with the victim's credit history shall have the offense reclassified as follows:
(a) In the case of a misdemeanor, the offense is reclassified as a felony of the third degree.
(b) In the case of a felony of the third degree, the offense is reclassified as a felony of the second degree.
(c) In the case of a felony of the second degree, the offense is reclassified as a felony of the first degree.
(d) In the case of a felony of the first degree or a felony of the first degree punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

For purposes of sentencing under chapter 921, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed, and a misdemeanor offense that is reclassified under this subsection is ranked in level 2 of the offense severity ranking chart.
(11) A person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is 60 years of age or older; a disabled adult as defined in s. 825.101; a public servant as defined in s. 838.014; a veteran as defined in s. 1.01; a first responder as defined in s. 125.01045; an individual who is employed by the State of Florida; or an individual who is employed by the Federal Government without first obtaining the consent of that individual commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I)	Depends on the sentencing schedule; see statute above.		**PROBABLY YES** The BIA has found that 817.568(2)(a) is not divisible and the offense is a categorical CIMT because the full range of conduct encompassed by that statute is inherently fraudulent. *See Matter of* (b) (6) [redacted] *aff'd Vilchiz-Bello v. U.S. Att'y Gen.*, 709 F. App'x 596 (Sept. 25, 2017); *see also Jordan v. DeGeorge*, 341 U.S. 223, 227–29 (1951) (stating that a crime involving fraud necessarily involves moral turpitude); *Matter of Jurado-Delgado*, 24 I&N Dec. 29, 34 (BIA 2006) (observing that a crime of making false statements is a crime involving moral turpitude where the elements of materiality and knowledge are shown); Matter of Flores, 17 I&N Dec. 225, 227–30 (BIA 1980) (holding that where fraud is clearly an ingredient of a crime, it involves moral turpitude, even if the usual phraseology concerning fraud is not included in the statute).	

Fla. Stat. § 817.61: Fraudulent Use of Credit Cards (effective July 1, 1997)

A person who, with intent to defraud the issuer or a person or organization providing money, goods, services, or anything else of value or any other person, uses, for the purpose of obtaining money, goods, services, or anything else of value, a credit card obtained or retained in violation of this part or a credit card which he or she knows is forged, or who obtains money, goods, services, or anything else of value by representing, without the consent of the cardholder, that he or she is the holder of a specified card or by representing that he or she is the holder of a card and such card has not in fact been issued violates this section. A person who, in any 6-month period, uses a credit card in violation of this section two or fewer times, or obtains money, goods, services, or anything else in violation of this section the value of which is less than $100, is subject to the penalties set forth in s. 817.67(1). A person who, in any 6-month period, uses a credit card in violation of this section more than two times, or obtains money, goods, services, or anything else in violation of this section the value of which is $100 or more, is subject to the penalties set forth in s. 817.67(2).

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	First-degree misdemeanor: 1 year Third-degree felony: purchases over $100: 5 years	**MAYBE** SCOTUS has noted that INA §101(a)(43)(M)(i) classifies a crime involving fraud or deceit of more than $10, 000 as an AGG FEL and that the circumstance specific approach is applicable to determine whether an individual's charge met the statutory monetary threshold. *See Nijhawan v. Holder*, 557 U.S. 29, 51 (2009). In rendering this decision, the Court compared statutes that had the relevant monetary threshold of $10, 000 and those that did not. *See id.* at 51. There, the Court found that 817.61 did not list the necessary monetary threshold. *See id.*	**PROBABLY YES** The BIA has affirmed an IJ's decision where respondent pleaded no contest to a charge of fraudulent use of a credit card in Florida State court and conceded that the conviction was for a CIMT. *See Matter of* (b) (6) [redacted]	

Fla. Stat. § 817.234: False and Fraudulent Insurance Claims (effective July 1, 2014)

(1)(a) A person commits insurance fraud punishable as provided in subsection (11) if that person, with the intent to injure, defraud, or deceive any insurer:

1. Presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy or a health maintenance organization subscriber or provider contract, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim;

2. Prepares or makes any written or oral statement that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy or a health maintenance organization subscriber or provider contract, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim;

3. a. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer, purported insurer, servicing corporation, insurance broker, or insurance agent, or any employee or agent thereof, any false, incomplete, or misleading information or written or oral statement as part of, or in support of, an application for the issuance of, or the rating of, any insurance policy, or a health maintenance organization subscriber or provider contract; or

b. Knowingly conceals information concerning any fact material to such application; or

4. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer a claim for payment or other benefit under a personal injury protection insurance policy if the person knows that the payee knowingly submitted a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400. . . .

(6) For the purposes of this section, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X ray, test result, or other evidence of loss, injury, or expense. . . .

(11) If the value of any property involved in a violation of this section:

(a) Is less than $20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Is $20,000 or more, but less than $100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Is $100,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. . . .

(13) As used in this section, the term:

(a) "Insurer" means any insurer, health maintenance organization, self-insurer, self-insurance fund, or similar entity or person regulated under chapter 440 or chapter 641 or by the Office of Insurance Regulation under the Florida Insurance Code. (b) "Property" means property as defined in s. 812.012. (c) "Value" means value as defined in s. 812.012.				
Possible Charge of Removability	**Maximum Sentence**	**Aggravated Felony?**	**Crime Involving Moral Turpitude?**	**Others?**
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(M)(i))	Third-degree felony if loss < $20k: 5 years Second-degree felony if loss $20k–$100k: 15 years First-degree felony if loss >/= $100k: 30 years	**LIKELY YES** In an unpublished opinion, the Eleventh Circuit held that Fla. Stat. § 817.234(1)(a)(1) categorically involved "fraud or deceit" and the respondent's conviction amounted to an INA § 101(a)(43)(M)(i) aggravated felony. *See Lindo v. Sec'y, U.S. Dep't of Homeland Sec.*, No. 18-12249, 2019 WL 1224075 (11th Cir. Mar. 15, 2019) The Eleventh Circuit employs the categorical approach to determine whether a conviction "involves fraud or deceit." *Cintron v. U.S. Att'y Gen.*, 882 F.3d 1380, 1383 (11th Cir. 2018). The Eleventh Circuit has noted, in reference to Florida's Uttering Forged Instruments statute, that "[w]hether done with intent to injure or intent to defraud, [the] violator must knowingly deceive—that is, he must state something is true that he knows is, in fact, false." *Walker v. United States Attorney General*, 783 F.3d 1226 (11th Cir. 2015). "Because [Fla. Stat. § 817.234(1)(a)(1)] requires knowingly making a materially false or misleading statement in an insurance claim, it necessarily involves an		

		act of deception" *Lindo*, No. 18-12249, 2019 WL 1224075, at *3. The *Lindo* Court went on to find, under the circumstance-specific approach, that the fraud resulted in a loss of over $10,000 to the victim, and held that Lindo's conviction was for an aggravated felony. *See id.* at *3–4.		

GAMBLING – no case law

HOMICIDE

Fla. Stat. § 782.04: Murder (effective October 1, 2016)

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;
2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:
   a. Trafficking offense prohibited by s. 893.135(1),
   b. Arson,
   c. Sexual battery,
   d. Robbery,
   e. Burglary,
   f. Kidnapping,
   g. Escape,
   h. Aggravated child abuse,
   i. Aggravated abuse of an elderly person or disabled adult,
   j. Aircraft piracy,
   k. Unlawful throwing, placing, or discharging of a destructive device or bomb,
   l. Carjacking,
   m. Home-invasion robbery,
   n. Aggravated stalking,
   o. Murder of another human being,
   p. Resisting an officer with violence to his or her person,
   q. Aggravated fleeing or eluding with serious bodily injury or death,
   r. Felony that is an act of terrorism or is in furtherance of an act of terrorism,
   s. Human trafficking; or
3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or methadone by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user, is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment. If the prosecutor intends to seek the death penalty, the prosecutor must give notice to the defendant and file the notice with the court within 45 days after arraignment. The notice must contain a list of the aggravating factors the state intends to prove and has reason to believe it can prove beyond a reasonable doubt. The court may allow the prosecutor to amend the notice upon a showing of good cause.

(2) The unlawful killing of a human being, when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual, is murder in the second degree and constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When a human being is killed during the perpetration of, or during the attempt to perpetrate, any:
(a) Trafficking offense prohibited by s. 893.135(1),
(b) Arson,
(c) Sexual battery,
(d) Robbery,
(e) Burglary,
(f) Kidnapping,
(g) Escape,
(h) Aggravated child abuse,
(i) Aggravated abuse of an elderly person or disabled adult,
(j) Aircraft piracy,
(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
(l) Carjacking,
(m) Home-invasion robbery,
(n) Aggravated stalking,
(o) Murder of another human being,
(p) Aggravated fleeing or eluding with serious bodily injury or death,
(q) Resisting an officer with violence to his or her person, or
(r) Felony that is an act of terrorism or is in furtherance of an act of terrorism, by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:
(a) Trafficking offense prohibited by s. 893.135(1),
(b) Arson,
(c) Sexual battery,
(d) Robbery,
(e) Burglary,
(f) Kidnapping,
(g) Escape,
(h) Aggravated child abuse,
(i) Aggravated abuse of an elderly person or disabled adult,
(j) Aircraft piracy,
(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
(l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
(m) Carjacking,
(n) Home-invasion robbery,

(o) Aggravated stalking,
(p) Murder of another human being,
(q) Aggravated fleeing or eluding with serious bodily injury or death,
(r) Resisting an officer with violence to his or her person, or
(s) Felony that is an act of terrorism or is in furtherance of an act of terrorism, is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) As used in this section, the term "terrorism" means an activity that:
(a)1. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or
2. Involves a violation of s. 815.06; and
(b) Is intended to:
1. Intimidate, injure, or coerce a civilian population;
2. Influence the policy of a government by intimidation or coercion; or
3. Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) **CIMT** 212(a)(2)(A)(i) (I), 237(a)(2)(A)(ii)	782.04(1): capital felony: death 782.04(2): first-degree felony: life imprisonment 782.04(3): first-degree felony: 30 years 782.04(4): second-degree felony: 15 years	**Yes** The Eleventh Circuit has held that physical force is categorically an element of Florida second degree murder under Fla. Stat. § 782.04(2). *See United States v. Jones*, 906 F.3d 1325, 1328 (11th Cir. 2018). In doing so, it reasoned that poisoning is a physical use of force because it involves force exerted by and through concrete bodies. *See id.* (citing *Hylor v. United States*, 896 F.3d 1219, 1223 (11th Cir. 2018). It also recognized that administering poison to kill someone is an intentional act that is capable of causing physical injury or pain. *See id.*	(b) (5) [redacted]	

Fla. Stat. § 782.07: Manslaughter; Aggravated Manslaughter of an of an Elderly Person or Disabled Adult; Aggravated Manslaughter of a Child; Aggravated Manslaughter of an Officer, a Firefighter, an EMT, or a Paramedic (effective October 1, 2012)

(1) The killing of a human being by the act, procurement, or culpable negligence of another, without lawful justification according to the provisions of chapter 776 and in cases in which such killing shall not be excusable homicide or murder, according to the provisions of this chapter, is manslaughter, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who causes the death of any elderly person or disabled adult by culpable negligence under s. 825.102(3) commits aggravated manslaughter of an elderly person or disabled adult, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who causes the death of any person under the age of 18 by culpable negligence under s. 827.03(2)(b) commits aggravated manslaughter of a child, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person who causes the death, through culpable negligence, of an officer as defined in s. 943.10(14), a firefighter as defined in s. 112.191, an emergency medical technician as defined in s. 401.23, or a paramedic as defined in s. 401.23, while the officer, firefighter, emergency medical technician, or paramedic is performing duties that are within the course of his or her employment, commits aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U)) **CIMT** 212(a)(2)(A)(i) (I), 237(a)(2)(A)(ii)	782.07(1): second-degree felony: 15 years 782.07(2): first-degree felony: 30 years 782.07(3): first-degree felony: 30 years 782.07(4): first-degree felony: 30 years	(b) (5) [redacted]	**MAYBE** Moral turpitude requires an evil intent or depraved motive. *Matter of J-*, 2 I&N Dec. 477, 479 (BIA 1946). The BIA has held that Fla. assault with intent to commit manslaughter is a CIMT because it contains the requisite mental state, as "intent to kill" is an essential element of the crime. *Id.* at 480–81 (noting involuntary manslaughter does not have the requisite intent, but voluntary manslaughter does). While the	**Crime of Violence under U.S.S.G. § 2L1.2: MAYBE** The Ninth Circuit has found that 782.07 is *not* a COV under U.S.S.G. § 2L1.2(b)(1)(A). *See United States v. Mendoza-Padilla*, 833 F.3d 1156 (9th Cir. 2016). Under the U.S.S.G., manslaughter is specifically enumerated within the definition of a COV. Under the categorical approach, manslaughter under federal law includes the *mens rea* of recklessness or higher. This Fla. statute, however, includes a *mens rea* less than recklessness and therefore is broader than the federal

		physical force against the person or property of another may be used in the course of committing the offense." *Matter of* (b) (6) [redacted] 2014 WL 7508445, at *1 (BIA Dec. 4, 2014). The Fla. Statute requires the mental state of culpable negligence, which falls within the mental state requirement under the generic definition of manslaughter because culpable negligence requires a person to consciously do an act that the person reasonably knew or should have known was likely to cause great bodily injury or death. *Id.* at *3. **Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, (Apr. 17, 2018).**	Fla. statute for manslaughter encompasses both (in)voluntary manslaughter, Respondent was convicted of "assault with intent to commit manslaughter," which includes only "voluntary manslaughter" thereby utilizing the requisite intent for making it a CIMT. *Id.* at 480.	definition, meaning a court should have inquired into whether the modified categorical approach applied. (In *Mendoza-Padilla*, the court did not do so; rather, the court simply held that it was not a COV based on the statute being broader than the federal definition.) **However,** the Fifth Circuit has found that 782.07 is *not* a COV under U.S.S.G. § 2L1.2(b)(1)(A) because: (1) the plain language of the statute does not require proof of force, and (2) it is not one of the enumerated offenses under the U.S.S.G. because the mental state required may be less than recklessness, which is broader than the generic definition of manslaughter. *See United States v. Garcia-Perez*, 779 F.3d 278 (5th Cir. 2015); *see also id.* at 289 (noting that this Fla. Statute may be committed by culpable negligence). **However**, another Fifth Circuit panel has stated that a manslaughter conviction in Fla. constituted a COV for purposes of a sentencing enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii) because the mental state required was at least recklessness, which falls under the generic definition of manslaughter. *See United States v. Chan-Gutierrez*, 368 Fed. App'x 536 (5th Cir. 2010). **Further,** the Eleventh Circuit found in an unpublished decision that "[a] Florida manslaughter conviction qualifies as a

				crime of violence under USSG § 4B1.2(a)." *United States v. Watkins*, No. 15-12037, 2017 WL 6333968, at 4 (11th Cir. Dec. 12, 2017) (citing *In re Burgest*, 829 F.3d 1285, 1287 (11th Cir. 2016).

Fla. Stat. § 782.071: Vehicular Homicide (effective October 1, 2014)

"Vehicular homicide" is the killing of a human being, or the killing of an unborn child by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

(1) Vehicular homicide is:
- (a) A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (b) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:
  1. At the time of the accident, the person knew, or should have known, that the accident occurred; and
  2. The person failed to give information and render aid as required by s. 316.062.

This paragraph does not require that the person knew that the accident resulted in injury or death.

(2) For purposes of this section, the term "unborn child" has the same meaning as provided in s. 775.021(5).

(3) A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section.

(4) In addition to any other punishment, the court may order the person to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U)) **CIMT** 212(a)(2)(A)(i) (I), 237(a)(2)(A)(ii)	782.071(1)(a): second-degree felony: 15 years 782.071(1)(b): first-degree felony: 30 years	**Crime of Violence under 18 U.S.C. § 16(b): NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). (b) (5), (b) (6) [redacted]	**MAYBE** The BIA has concluded that a conviction of vehicular homicide under 782.071 is categorically a CIMT because in order to be convicted under this statute, the state had to prove that the defendant drove recklessly, that is, with a willful or wanton disregard for the safety of others. *Matter of* (b) (6) [redacted], 2007 WL 2464016 (BIA Jul. 27, 2007). The Fla. statute includes a mental state of reckless driving, which is driving in "a willful or wanton disregard for safety," and therefore satisfies the requisite mental state for constituting a CIMT. *Id.* at *2.	

KIDNAPPING; FALSE IMPRISONMENT; LURING OR ENTICING A CHILD; CUSTODY OFFENSES

Fla. Stat. § 787.02: False Imprisonment; False Imprisonment of Child Under Age 13, Aggravating Circumstances (effective June 30, 2015)

(1)(a) The term "false imprisonment" means forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against her or his will.

(b) Confinement of a child under the age of 13 is against her or his will within the meaning of this section if such confinement is without the consent of her or his parent or legal guardian.

(2) A person who commits the offense of false imprisonment is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-5., commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);
4. A violation of former s. 796.03 or s. 796.04, relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or
6. A violation of s. 787.06(3)(g) relating to human trafficking.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii)	First-degree felony: Life or 30 years Third-degree felony: 5 years	**Crime of Violence under 18 U.S.C. § 16(b): NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).		

LEWDNESS; INDECENT EXPOSURE

Fla. Stat. § 800.04: Lewd or Lascivious Offenses Committed Upon or in the Presence of Persons less than 16 Years of Age (effective October 1, 2014)

(1) DEFINITIONS.—As used in this section:
(a) "Sexual activity" means the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.
(b) "Consent" means intelligent, knowing, and voluntary consent, and does not include submission by coercion.
(c) "Coercion" means the use of exploitation, bribes, threats of force, or intimidation to gain cooperation or compliance.
(d) "Victim" means a person upon whom an offense described in this section was committed or attempted or a person who has reported a violation of this section to a law enforcement officer.

(2) PROHIBITED DEFENSES.—Neither the victim's lack of chastity nor the victim's consent is a defense to the crimes proscribed by this section.

(3) IGNORANCE OR BELIEF OF VICTIM'S AGE.—The perpetrator's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the perpetrator's bona fide belief of the victim's age cannot be raised as a defense in a prosecution under this section.

(4) LEWD OR LASCIVIOUS BATTERY.—
(a) A person commits lewd or lascivious battery by:
1. Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or
2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.
(b) Except as provided in paragraph (c), an offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of:
1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Chapter 794, excluding s. 794.011(10);
5. Section 825.1025;
6. Section 847.0135(5); or
7. This section.

(5) LEWD OR LASCIVIOUS MOLESTATION.—
(a) A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. 775.082(3)(a)4.

(c) 1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is 18 years of age or older and commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Chapter 794, excluding s. 794.011(10);
5. Section 825.1025;
6. Section 847.0135(5); or
7. This section.

(6) LEWD OR LASCIVIOUS CONDUCT.—

(a) A person who:

1. Intentionally touches a person under 16 years of age in a lewd or lascivious manner; or
2 Solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.

(b) An offender 18 years of age or older who commits lewd or lascivious conduct commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits lewd or lascivious conduct commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) LEWD OR LASCIVIOUS EXHIBITION.—

(a) A person who:

1. Intentionally masturbates;
2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084

(8) EXCEPTION.—A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this section.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Other
AGG FEL 237(a)(2)(A) (iii) (corresponds with § 101(a)(43)(A)–(U)) **CIMT**: 212(a)(2)(A) (i)(I), 237(a)(2)(A) (ii)	800.04(4)(b): second-degree felony: 15 years 800.04(4)(c): first-degree felony: 30 years 800.04(5)(b): life felony: life 800.04(5)(c): second-degree felony: 15 years 800.04(5)(d): third-degree felony: 5 years 800.04(5)(e): first-degree felony: 30 years 800.04(6)(b): second-degree felony: 15 years 800.04(6)(c): third-degree felony: 5 years	**YES** The Eleventh Circuit has held that because the ordinary, common and contemporary meaning of "sexual abuse of a minor" in INA § 101(a)(43) includes a violation of 800.04, with or without victim contact, it constitutes an aggravated felony. *United States v. Padilla-Reyes*, 247 F.3d 1158, 1164 (11th Cir. 2001). **Crime of Violence under 18 U.S.C. § 16(b): NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). *Dimaya* thus overrules *Ramsey v. INS*, 55 F.3d 580, 582–84 (11th Cir. 1995); *Chuang v. U.S. Att'y Gen.*, 382 F.3d 1209 (11th Cir. 2004); [redacted] (b) (6)	**MAYBE** The Eleventh Circuit has said in dicta that "[i]t is uncontroverted that both [defendant's] offenses [one of which being 800.04] are crimes involving moral turpitude." *Ramsey v. INS*, 55 F.3d 580, 582 (11th Cir. 1995).	**Crime of Violence under U.S.S.G. § 4B1.2: YES** 800.04 is a COV under § 4B1.2. *See United States v. Rutherford*, 175 F.3d 899 (11th Cir. 1999); *United States v. Cortes-Salazar*, 682 F.3d 953 (11th Cir. 2012). Even if the crime is committed without force, a substantial risk exists that force would have to be used against a victim because the victim would likely resist in this situation.

MISCELLANEOUS OFFENSES

Fla. Stat. § 877.03: Breach of the Peace; Disorderly Conduct (effective 1986)

Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	Second-degree misdemeanor: 60 days		(b) (5) [redacted]	

MOTOR VEHICLES

Fla. Stat. § 316.027(1)–(2): Crash Involving Death or Personal Injuries (effective July 1, 2014)

(1) As used in this section, the term:
(a) "Serious bodily injury" means an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.
(b) "Vulnerable road user" means:
1. A pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
2. A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
3. A person riding an animal; or
4. A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
a. A farm tractor or similar vehicle designed primarily for farm use;
b. A skateboard, roller skates, or in-line skates;
c. A horse-drawn carriage;
d. An electric personal assistive mobility device; or
e. A wheelchair.

(2)(a) The driver of a vehicle involved in a crash occurring on public or private property which results in injury to a person other than serious bodily injury shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) The driver of a vehicle involved in a crash occurring on public or private property which results in serious bodily injury to a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of this section, s. 316.061, s. 316.191, or s. 316.193, or a felony violation of s. 322.34, shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. A person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a mandatory minimum term of imprisonment of 4 years. A person who willfully commits such a violation while driving under the influence as set forth in s. 316.193(1) shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I); 237(a)(2)(A)(i)	First-degree felony: 30 year		(b) (5) [redacted]	

[5] Under 316.027(2)(c), a driver of a vehicle involved in an accident that results in the death of any person must immediately stop at the scene and remain at the scene until he has fulfilled the requirements of 316.062, which requires, *inter alia,* the driver of the vehicle to provide certain information and render "reasonable assistance" to any person injured in the crash. In an unpublished decision, the Eleventh Circuit has found that the BIA properly determined that the statute was divisible and that the modified categorical approach was appropriate. *See Villeda v. U.S. Att'y Gen.*, 532 Fed. App'x 897 (Mem). The court noted that in finding the respondent was convicted of a CIMT, the BIA relied on the charging document, which stated that the respondent "unlawfully and willfully fail[ed] to stop the vehicle at the scene of said crash . . . and remain at the scene of the crash until fulfilling the requirements of 316.062, said crash resulting in the death of [the victim] contrary" to 316.027(2)(c). The court found that the BIA's reliance on the charging document was proper under the modified categorical approach, and, based on the record of conviction, the court agreed with the BIA's conclusion that the respondent's willful failure to stop and remain at the scene of the deadly crash was inherently base, vile, or depraved. *Villeda*, 532 Fed. App'x at 898–99 (citing *Itani v. Ashcroft*, 298 F.3d 1213, 1215 (11th Cir. 2002)).

Fla. Stat. § 316.061: Crashes Involving Damage to Vehicle or Property (effective May 7, 2002)

(1) The driver of any vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop such vehicle at the scene of such crash or as close thereto as possible, and shall forthwith return to, and in every event shall remain at, the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Notwithstanding any other provision of this section, $5 shall be added to a fine imposed pursuant to this section, which $5 shall be deposited in the Emergency Medical Services Trust Fund.
(2) Every stop must be made without obstructing traffic more than is necessary, and, if a damaged vehicle is obstructing traffic, the driver of such vehicle must make every reasonable effort to move the vehicle or have it moved so as not to block the regular flow of traffic. Any person failing to comply with this subsection shall be cited for a nonmoving violation, punishable as provided in chapter 318.
(3) Employees or authorized agents of the Department of Transportation, law enforcement with proper jurisdiction, or an expressway authority created pursuant to chapter 348, in the exercise, management, control, and maintenance of its highway system, may undertake the removal from the main traveled way of roads on its highway system of all vehicles incapacitated as a result of a motor vehicle crash and of debris caused thereby. Such removal is applicable when such a motor vehicle crash results only in damage to a vehicle or other property, and when such removal can be accomplished safely and will result in the improved safety or convenience of travel upon the road. The driver or any other person who has removed a motor vehicle from the main traveled way of the road as provided in this section shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I); 237(a)(2)(A)(i)	Second- degree misdemeanor: 60 day		**PROBABLY NO** The Fourth District Court of Appeal of Florida has held that 316.061 lacks a mens rea requirement. *Mancuso v. State*, 636 So. 2d 753, 754 (Fla. Dist. Ct. App. 1994).	

Fla. Stat. § 316.192: Reckless Driving (effective October 1, 2016)

(1)(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.
(b) Fleeing a law enforcement officer in a motor vehicle is reckless driving per se.
(2) Except as provided in subsection (3), any person convicted of reckless driving shall be punished:
(a) Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment.
(b) On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.
(3) Any person:
(a) Who is in violation of subsection (1);
(b) Who operates a vehicle; and
(c) Who, by reason of such operation, causes:
1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
2. Serious bodily injury to another commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	Third-degree felony: 5 year		(b) (5) [redacted]	

Fla. Stat. § 316.193: Driving Under the Influence; Penalties (effective July 1, 2016)

(1) A person is guilty of the offense of driving under the influence and is subject to punishment as provided in subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:
(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person's normal faculties are impaired;
(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.
(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:
1. By a fine of:
a. Not less than $500 or more than $1,000 for a first conviction.
b. Not less than $1,000 or more than $2,000 for a second conviction; and
2. By imprisonment for:
a. Not more than 6 months for a first conviction.
b. Not more than 9 months for a second conviction.
3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.
(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.
2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than $2,000 or more than $5,000 and by imprisonment for not more than 12 months. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The installation of such device may not occur before July 1, 2003.
3. Any person who is convicted of a fourth or subsequent violation of this section, regardless of when any prior conviction for a violation of this section occurred, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, the fine imposed for such fourth or subsequent violation may be not less than $2,000.
(c) In addition to the penalties in paragraph (a), the court may order placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 for at least 6 continuous months upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person if, at the time of the offense, the person had a blood-alcohol level or breath-alcohol level of .08 or higher.
(3) Any person:
(a) Who is in violation of subsection (1);
(b) Who operates a vehicle; and
(c) Who, by reason of such operation, causes or contributes to causing:
1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. The death of any human being or unborn child commits DUI manslaughter, and commits:
a. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:
(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and
(II) The person failed to give information and render aid as required by s. 316.062.
For purposes of this subsection, the term "unborn child" has the same meaning as provided in s. 775.021(5). A person who is convicted of DUI manslaughter shall be sentenced to a mandatory minimum term of imprisonment of 4 years.
(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:
(a) By a fine of:
1. Not less than $1,000 or more than $2,000 for a first conviction.
2. Not less than $2,000 or more than $4,000 for a second conviction.
3. Not less than $4,000 for a third or subsequent conviction.
(b) By imprisonment for:
1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.
For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i) **AGG FEL: COV** 237(a)(2)(A)(iii)	First-degree felony: 30 years	**Crime of Violence under 18 U.S.C. § 16: NO** The Eleventh Circuit has found that a conviction for DUI causing serious bodily injury in an accident was not a COV under 18 U.S.C. § 16 and therefore not an AGG FEL. *See Leocal v. Ashcroft*, 543 U.S. 1 (2004).[6] Although the DUI statute requires proof of causation, it did not require	(b) (5) [redacted]	

[6] This decision abrogated the Eleventh Circuit's finding in *Le v. U.S. Att'y Gen.* that driving under the influence with serious bodily injury was a crime of violence, as required for such offense to be an aggravated felony. 196 F.3d 1352 (11th Cir. 1999).

		any proof of mental state and did not involve the use of physical force against the person or property of another. **Note that the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018).**	(b) (5) [redacted]	

Fla. Stat. § 316.1935: Fleeing or Attempting to Elude a Law Enforcement Officer; Aggravated Fleeing or Eluding (effective July 1, 2014)

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding:
(a) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 3 years imprisonment. Nothing in this paragraph shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

(4) Any person who, in the course of unlawfully leaving or attempting to leave the scene of a crash in violation of s. 316.027 or s. 316.061, having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer and, as a result of such fleeing or eluding:
(a) Causes injury to another person or causes damage to any property belonging to another person, commits aggravated fleeing or eluding, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, relating to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment. Nothing in this subsection shall prevent a court from imposing a greater sentence of incarceration as authorized by law.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i) **AGG FEL: COV** 237(a)(2)(A)(iii) **PSC** 241(b)(3)	First-degree felony: 30 years	**Crime of Violence under 18 U.S.C. § 16: NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). *Dimaya* thus overrules *Dixon v. U.S. Att'y Gen.*, 768 F.3d. 1339, 1342, 1345–46 (11th Cir. 2014).	**PROBABLY: 316.1935(2)** The BIA applied the categorical approach to determine whether simple vehicle flight under 316.1935(2), is a CIMT. *See* (b) (6) [redacted] irst, it determined that the statute has the necessary mental state (willfulness) to be a CIMT. However, it found that the statute's elements **do not define sufficiently reprehensible conduct** to justify CIMT treatment. *Id*. That is, the statute does not require neither the use of a deadly weapon against an officer—as in *Matter of Logan*, 17 I&N Dec. 367, 368-69 (BIA 1980)—nor the use of force or violence upon an officer—as in *Cano v. U.S. Att'y Gen.*, 709 F.3d 1052, 1054-55 (11th Cir. 2013) or *Matter of Danesh*, 19 I&N Dec. 669, 670-73 (BIA 1988)—nor a wanton or willful disregard for the lives or property of others—as in *Matter of Ruiz-Lopez*, 25 I&N Dec. 551 (BIA 2011). However, the Eleventh Circuit, in a recently unpublished opinion, found that a violation of Fla. Stat. § 316.1935(2) does constitute a CIMT. *See Gonzalez v. U.S. Att'y Gen.*, No. 16-10368, 2019 WL 81612, at *1, *9 (11th Cir. Jan. 3, 2019). In coming to its conclusion, it relied on the proposition that intentional vehicle flight	(b) (5) [redacted]

			from a law enforcement officer is an "inherently risky" offense, that the offense by definitional necessity occurs in the presence of a law enforcement officer and provokes a dangerous confrontational response from that officer, and that this confrontational response places property and persons at serious risk both during and after the pursuit, even without any reckless driving on the part of the offender."*See id.* at *8–*9 (citing *Sykes v. United States*, 564 U.S. 1 (2011).	

Fla. Stat. § 319.22(5): Transfer of Title (effective July 1, 2009)

It is illegal to transfer title to a motor vehicle when the purchaser's name does not appear on the title. Any buyer or seller who knowingly and willfully violates this subsection with intent to commit fraud commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	First-degree misdemeanor: 1 year		(b) (5) [redacted]	

Fla. Stat. § 322.051(6)(a): Identification Cards (effective October 1, 2016)

(6) It is unlawful for any person:
(a) To display, cause or permit to be displayed, or have in his or her possession any fictitious, fraudulently altered, or fraudulently obtained identification card.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	N/A		(b)(5) [redacted]	

Fla. Stat. § 322.212(5): Unauthorized Possession of, and other Unlawful Acts in relation to, Driver License or Identification Card (effective July 1, 2013)

(5)(a) It is unlawful for any person to use a false or fictitious name in any application for a driver license or identification card or knowingly to make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any such application.
(b) It is unlawful for any person to have in his or her possession a driver license or identification card upon which the date of birth has been altered.
(c) It is unlawful for any person designated as a sexual predator or sexual offender to have in his or her possession a driver license or identification card upon which the sexual predator or sexual offender markings required by s. 322.141 are not displayed or have been altered.
(6) Except as otherwise provided in this subsection, any person who violates any of the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who violates paragraph (5)(a) by giving a false age in any application for a driver license or identification card or who violates paragraph (5)(b) by possessing a driver license, identification card, or any instrument in the similitude thereof, on which the date of birth has been altered is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any person who violates paragraph (1)(d) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	Second-degree misdemeanor: 60 days		(b) (5) [redacted]	

Fla. Stat. § 322.33: Making False Affidavit Perjury (effective 1941)

Any person who makes any false affidavit, or knowingly swears or affirms falsely to any matter or thing required by the terms of this chapter, shall be guilty of perjury and upon conviction shall be punished accordingly.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	First-degree misdemeanor: 1 year		(b) (5) [redacted]	

Fla. Stat. § 322.34(6): Driving While License Suspended, Revoked, Canceled, or Disqualified (effective July 1, 2016)

(6) Any person who operates a motor vehicle:
(a) Without having a driver license as required under s. 322.03; or
(b) While his or her driver license or driving privilege is canceled, suspended, or revoked pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (4), and who by careless or negligent operation of the motor vehicle causes the death of or serious bodily injury to another human being commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	Third-degree felony: 5 years		(b) (5) [redacted]	

[7] The only conduct criminalized under 322.34(6) is driving without a valid license. *State v. Brown*, 734 So. 2d 1187, 1189 (Fla. Dist. Ct. App. 1999). The provision regarding negligent or careless driving resulting in the death or serious bodily harm of another is treated as an enhancement. *Id.* at 1188; *see also Waites v. State*, 702 So. 2d 1373, 1375 (Fla. Dist. Ct. App. 1997).

[8] The BIA "found it significant that the defendant knowingly drove while intoxicated, knowing that his license was suspended or revoked." *Matter of Torres-Varela*, 23 I&N Dec. 78, 82 (BIA 2001) (analyzing its prior decision in *Lopez-Meza*).

			(b) (5) [redacted]	

OBSCENITY

Fla. Stat. § 847.0135: Computer Pornography; Prohibited Computer Usage; Traveling to Meet Minor; Penalties (effective July 1, 2009)

(1) SHORT TITLE.—This section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act."

(2) COMPUTER PORNOGRAPHY.—A person who:
(a) Knowingly compiles, enters into, or transmits by use of computer;
(b) Makes, prints, publishes, or reproduces by other computerized means;
(c) Knowingly causes or allows to be entered into or transmitted by use of computer; or
(d) Buys, sells, receives, exchanges, or disseminates,

any notice, statement, or advertisement of any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.—Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
(a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
(b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein an offense described in this section is committed may be charged as a separate offense.

(4) TRAVELING TO MEET A MINOR.—Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
(a) Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in other unlawful sexual conduct with a child; or

(b) Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct,

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) CERTAIN COMPUTER TRANSMISSIONS PROHIBITED.—

(a) A person who:

1. Intentionally masturbates;
2. Intentionally exposes the genitals in a lewd or lascivious manner; or
3. Intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity

live over a computer online service, Internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age, commits lewd or lascivious exhibition in violation of this subsection. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this subsection shall not constitute a defense to a prosecution under this subsection.

(b) An offender 18 years of age or older who commits a lewd or lascivious exhibition using a computer commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) An offender less than 18 years of age who commits a lewd or lascivious exhibition using a computer commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A mother's breastfeeding of her baby does not under any circumstance constitute a violation of this subsection.

(6) OWNERS OR OPERATORS OF COMPUTER SERVICES LIABLE.—It is unlawful for any owner or operator of a computer online service, Internet service, or local bulletin board service knowingly to permit a subscriber to use the service to commit a violation of this section. Any person who violates this section commits a misdemeanor of the first degree, punishable by a fine not exceeding $2,000.

(7) STATE CRIMINAL JURISDICTION.—A person is subject to prosecution in this state pursuant to chapter 910 for any conduct proscribed by this section which the person engages in, while either within or outside this state, if by such conduct the person commits a violation of this section involving a child, a child's guardian, or another person believed by the person to be a child or a child's guardian.

(8) EFFECT OF PROSECUTION.—Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state or another jurisdiction for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A) (iii) (corresponds with § 101(a)(43)(A)–(U))	847.0135(2): third-degree felony: 5 years 847.0135(4): second-degree felony: 15 years 847.0135(5) (b): second-degree felony: 15 years 847.0135(5) (c): third-degree felony: 5 years 847.0135(6): first-degree misdemeanor: fine up to $2,000	**MAYBE** The BIA has concluded that a conviction under 847.0135(2) was categorically an AGG FEL because even the most minimal conduct under the statute constitutes sexual abuse of a minor as it "necessarily entails the 'sexual exploitation' of the minor." *Matter of* (b) (6) [redacted] 2014 WL 1278416, at **2–3 (BIA Feb. 26, 2014). The BIA provided that "sexual abuse of a minor" refers to "the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children." *See Matter of Rodriguez-Rodriguez*, 22 I&N Dec. 991, 995-96 (BIA 1999) (looking to 18 U.S.C. § 3509(a)(8) as providing a "useful identification of the forms of sexual abuse"); *see also United States v. Ramirez*, 646 F.3d 778, 784-85 (11th Cir. 2011) (noting that sending sexually explicit messages		

		to a minor to solicit the minor for sexual acts constituted sexual abuse of a minor). The BIA found that 847.0135(4)(A) categorically involves sexual abuse of a minor because "the statute criminalizes seducing, etc., for unlawful sexual conduct, including sexual conduct rendered unlawful by chapters 794, 800, 827, or by any other provision of law." The statute categorically involves sexual abuse of a minor. *See Matter* (b) (6) [redacted]		

OBSTRUCTING JUSTICE

Fla. Stat. § 843.01: Resisting Officer with Violence to His or Her Person (effective July 1, 2014)

Whoever knowingly and willfully resists, obstructs, or opposes any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; parole and probation supervisor; county probation officer; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)(I)	Third-degree felony: not exceed five years		**YES** The Eleventh Circuit held that a 2003 conviction for resisting an officer with violence in violation of 843.01 is a CIMT. *See Cano v. U.S. Att'y Gen.*, 709 F.3d 1052 (11th Cir. 2013). Regarding scienter, the circuit court found that the statute was a general intent crime that applied to both resisting arrest and the offer or use of violence. *See id.* at 1054 (citing *Frey v. State*, 708 So.2d 918, 919–20 (Fla. 1998) (holding that 843.01 was a general intent crime). Regarding reprehensible conduct, the court found that the use of physical force against an officer was conduct that exhibited a deliberate disregard for the law. *See id.* (citing *Harris v. State*, 5 So.3d 750,	**VIOLENT FELONY UNDER THE ACCA: YES** The Eleventh Circuit has held that a conviction for resisting an officer with violence under 843.01 qualifies as a violent felony under the ACCA because Florida courts have held that violence is a necessary element of the offense. *See United States v. Hill*, 799 F.3d 1318, 1322-23 (11th Cir. 2015); *see also United States v. Romo-Villalobos*, 674 F.3d 1246, 1251 (11th Cir. 2012) (concluding that a conviction under section 843.01 "is sufficient for liability under the first prong of the ACCA"); *United States v. Joyer*, cause no. 16-17285, --- F.3d --- (11th Cir. Feb. 22, 2018) (affirming *Hill*). The circuit court also noted that to the extent a defendant argues that *Hill* is not binding because it conflicts with *Descamps* and *Moncrieffe v. Holder*, 133 S. Ct. 1678 (2013),

			751 (Fla. 1st DCA 2009) (providing that resisting an officer with officer differs from simple battery because offering or doing violence involves the use or threat of physical force).	those decisions predated *Hill*, and "there is no "exception to the prior panel precedent rule based upon a perceived defect in the prior panel's reasoning or analysis as it relates back to the law in existence at that time." *Smith v. GTE Corp.*, 236 F.3d 1292, 1303 (11th Cir. 2001). *See United States v. Washington II*, 17-10059, 2017 WL 3822039, at *3 (11th Cir. Aug. 31, 2017).

Fla. Stat. § 843.02: Resisting Officer Without Violence to His or Her Person (effective July 1, 2014)

Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; county probation officer; parole and probation supervisor; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)(I)	First-degree misdemeanor: 1 year		(b) (5) [redacted]	

OFFENSES BY PUBLIC OFFICERS AND EMPLOYEES

Fla. Stat. § 839.13: Falsifying Records (effective July 1, 2014)

(1) Except as provided in subsection (2), if any judge, justice, mayor, alderman, clerk, sheriff, coroner, or other public officer, or employee or agent of or contractor with a public agency, or any person whatsoever, shall steal, embezzle, alter, corruptly withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or shall knowingly and willfully take off, discharge or conceal any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or shall forge, deface, or falsify any document or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or shall fraudulently alter, deface, or falsify any minutes, documents, books, or any proceedings whatever of or belonging to any public office within this state; or if any person shall cause or procure any of the offenses aforesaid to be committed, or be in anywise concerned therein, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(2)(a) Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term "care and custody" includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.
(b) Any person who commits a violation of paragraph (a) which contributes to great bodily harm to or the death of an individual in the care and custody of a state agency commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For the purposes of this paragraph, the term "care and custody" includes, but is not limited to, a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415.
(c) Any person who knowingly falsifies, alters, destroys, defaces, overwrites, removes, or discards records of the Department of Children and Families or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, protective supervision, foster care and related services, or a protective investigation or protective supervision of a vulnerable adult, as defined in chapter 39, chapter 409, or chapter 415, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Nothing in this paragraph prohibits prosecution for a violation of paragraph (a) or paragraph (b) involving records described in this paragraph.
(d) This section does not prohibit the disposing or archiving of records as otherwise provided by law. In addition, this section does not prohibit any person from correcting or updating records.
(3) In any prosecution under this section, it shall not be necessary to prove the ownership or value of any paper or instrument involved.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)	839.13(1): first-degree misdemeanor: 1 year 839.13(2)(a): third-degree felony: 5 years 839.12(2)(b): second-degree felony: 15 years 839.12(2)(c): third-degree felony: 5 years		(b) (5) [redacted]	

OFFENSES CONCERNING AIRCRAFT, MOTOR VEHICLES, VESSELS, AND RAILROADS – no case law

OFFENSES CONCERNING DEAD BODIES AND GRAVES – no case law

OFFENSES CONCERNING RACKETEERING AND ILLEGAL DEBTS – no case law

OFFENSES RELATED TO FINANCIAL TRANSACTIONS – no case law

OFFENSES RELATED TO PUBLIC ROADS, TRANSPORT, AND WATERS – no case law

PERJURY – no case law

PRINCIPAL; ACCESSORY; ATTEMPT; SOLICITATION; CONSPIRACY

Fla. Stat. § 777.04: Attempts, Solicitation, and Conspiracy (effective July 1, 2008)

(1) A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt, ranked for purposes of sentencing as provided in subsection (4). Criminal attempt includes the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.

(2) A person who solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense commits the offense of criminal solicitation, ranked for purposes of sentencing as provided in subsection

(3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

(4)(a) Except as otherwise provided in ss. 104.091(2), 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under s. 921.0022 or s. 921.0023 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 828.125(2), or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;
2. Burglary that is a felony of the third degree; or
3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 849.25(4), or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) Except as otherwise provided in s. 104.091(2), if the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U)) **Controlled Substance** 237(a)(2)(B)(i)	Sentence depends on rank of underlying substantive offense. *See* Fla. Stat. § 777.04(4)	**MAYBE – "Attempt," depends on the underlying substantive offense** **Crime of Violence under 18 U.S.C. § 16(b): NO,** the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, No. 15-1498 (Apr. 17, 2018). **Attempted Lewd Assault is an AGG FEL.** *Ramsey v. INS*, 55 F.3d 580 (11th Cir. 1995). 777.04(1) criminalizes the attempt to commit substantive offenses; 800.04(1) defines the underlying substantive offense, which is a person who "handles, fondles, or assaults any child under the age of 16 years in a lewd, lascivious, or indecent manner." 800.04(1) is a COV if a particular substantive crime carries with it a substantive risk that physical force would be used, then attempt to commit such a crime also involves a substantive risk of physical force. *Ramsey*, 55 F.3d at 583.		(b) (5) [redacted]

PROSTITUTION

Fla. Stat. § 796.06: Renting Space to be used for Lewdness, Assignation, or Prostitution (effective October 1, 2016)

(1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used for the purpose of lewdness, assignation, or prostitution.
(2) A person who violates this section commits:
(a) A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.
(b) A felony of the third degree for a second or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)	First-degree misdemeanor: 1 year Third-degree felony: 5 years		**MAYBE** The BIA has reasoned that a conviction under 796.07 for letting or renting rooms with knowledge that the rooms were to be used for the purpose of lewdness, assignation, or prostitution, in violation of section 26-42 of the City of Tampa Code, is conviction of a CIMT. *See Matter of Lambert*, 11 I&N Dec. 340 (BIA 1965) (indicating that respondent's 1962 crime of renting a room with knowledge that the rooms would be used for the purpose of lewdness, assignation or prostitution constituted a CIMT). This 1962 crime under then-796.07 appears to be the same as, or substantially similar to, the 2016 version of 796.06.	

Fla. Stat. § 796.07: Prohibiting Prostitution and Related Acts (effective October 1, 2016)

(1) As used in this section:
(a) "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.
(b) "Lewdness" means any indecent or obscene act.
(c) "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.
(d) "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful:
(a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.
(b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.
(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.
(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.
(e) For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.
(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.
(g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.
(h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.
(i) To purchase the services of any person engaged in prostitution.

(3)(a) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.
(b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(4)(a) A person who violates any provision of this section, other than paragraph (2)(f), commits:
1. A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.
2. A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.
3. A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) A person who is charged with a third or subsequent violation of this section, other than paragraph (2)(f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.

(5)(a) A person who violates paragraph (2)(f) commits:
1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.
2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) In addition to any other penalty imposed, the court shall order a person convicted of a violation of paragraph (2)(f) to:

1. Perform 100 hours of community service; and
2. Pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such programs exist in the judicial circuit in which the offender is sentenced.
(c) In addition to any other penalty imposed, the court shall sentence a person convicted of a second or subsequent violation of paragraph (2)(f) to a minimum mandatory period of incarceration of 10 days.
(d) 1. If a person who violates paragraph (2)(f) uses a vehicle in the course of the violation, the judge, upon the person's conviction, may issue an order for the impoundment or immobilization of the vehicle for a period of up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting all of the conditions of s. 316.193(13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.
2. The owner of the vehicle may request the court to dismiss the order. The court must dismiss the order, and the owner of the vehicle will incur no costs, if the owner of the vehicle alleges and the court finds to be true any of the following:
a. The owner's family has no other private or public means of transportation;
b. The vehicle was stolen at the time of the offense;
c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or
d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.
3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs (d)2.a.-d., the court must dismiss the order and the owner of the vehicle will incur no costs.

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of $5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first $500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.

(7) If the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of paragraph (2)(a) is a massage establishment that is or should be licensed under s. 480.043, the offense shall be reclassified to the next higher degree as follows:
(a) A misdemeanor of the second degree for a first violation is reclassified as a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(b) A misdemeanor of the first degree for a second violation is reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) A felony of the third degree for a third or subsequent violation is reclassified as a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)	Second-degree felony: 15 years		**YES** The BIA has made multiple references to the "lewdness" aspect. *Matter of Lambert*, 11 I&N Dec. 340 (BIA 1965); *see also Matter of Turcotte*, 12 I&N Dec. 206. (BIA 1967).	

POISONS; ADULTERATED DRUGS – no case law

PUBLIC NUISANCES

Fla. Stat. § 823.10 – Place Where Controlled Substances are Illegally Kept, Sold, or Used Declared a Public Nuisance (effective July 1, 2001)

(1) Any store, shop, warehouse, dwelling house, building, structure, vehicle, ship, boat, vessel, or aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully using any substance controlled under chapter 893 or any drugs as described in chapter 499, or which is used for the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance. Any person who willfully keeps or maintains a public nuisance or willfully aids or abets another in keeping or maintaining a public nuisance, and such public nuisance is a warehouse, structure, or building, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(2) Any proceeding brought under this section shall be governed by chapter 60.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
PSC 241(b)(3)				(b) (5) [redacted]

REGULATION OF PROFESSIONS AND OCCUPATIONS – no case law

SALE OF ANATOMICAL MATTER – no case law

SALE OF FIREWORKS – no case law

SALE OF MORTGAGED PERSONAL PROPERTY; SIMILAR OFFENSES – no case law

SEXUAL BATTERY

Fla. Stat. § 794.011: Sexual Battery (effective March 7, 2016)

(1) As used in this chapter:
(a) "Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. "Consent" shall not be deemed or construed to mean the failure by the alleged victim to offer physical resistance to the offender.
(b) "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.
(c) "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.
(d) "Offender" means a person accused of a sexual offense in violation of a provision of this chapter.
(e) "Physically helpless" means unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.
(f) "Retaliation" includes, but is not limited to, threats of future physical punishment, kidnapping, false imprisonment or forcible confinement, or extortion.
(g) "Serious personal injury" means great bodily harm or pain, permanent disability, or permanent disfigurement.
(h) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.
(i) "Victim" means a person who has been the object of a sexual offense.
(j) "Physically incapacitated" means bodily impaired or handicapped and substantially limited in ability to resist or flee.

(2)(a) A person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a capital felony, punishable as provided in ss. 775.082 and 921.141.
(b) A person less than 18 years of age who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(3) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury commits a life felony, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(4)(a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.
(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 800.04;
5. Section 825.1025;
6. Section 847.0135(5); or
7. This chapter, excluding subsection (10) of this section.

(e) The following circumstances apply to paragraphs (a)-(d):
1. The victim is physically helpless to resist.
2. The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.
3. The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.
4. The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim.
5. The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.
6. The victim is physically incapacitated.
7. The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5)(a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:
1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 800.04;

5. Section 825.1025;
6. Section 847.0135(5); or
7. This chapter, excluding subsection (10) of this section.

(6)(a) The offenses described in paragraphs (5)(a)-(c) are included in any sexual battery offense charged under subsection (3).
(b) The offense described in paragraph (5)(a) is included in an offense charged under paragraph (4)(a).
(c) The offense described in paragraph (5)(b) is included in an offense charged under paragraph (4)(b).
(d) The offense described in paragraph (5)(c) is included in an offense charged under paragraph (4)(c).
(e) The offense described in paragraph (5)(d) is included in an offense charged under paragraph (4)(d).

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for basic gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:
(a) Solicits that person to engage in any act which would constitute sexual battery under paragraph (1)(h) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Engages in any act with that person while the person is 12 years of age or older but younger than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) Engages in any act with that person while the person is less than 12 years of age which constitutes sexual battery under paragraph (1)(h), or in an attempt to commit sexual battery injures the sexual organs of such person commits a capital or life felony, punishable pursuant to subsection (2).

(9) For prosecution under paragraph (4)(a), paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d) which involves an offense committed under any of the circumstances listed in subparagraph (4)(e)7., acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) A person who falsely accuses a person listed in subparagraph (4)(e)7. or other person in a position of control or authority as an agent or employee of government of violating paragraph (4)(a), paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	794.011(8)(a): third-degree felony: 5 years	**YES – 794.011(8)(a)** 794.011(8)(a) constitutes "Sexual Abuse of a Minor" under INA § 101(a)(43)(A), which defines "aggravated felony" to include "sexual abuse of a		

		minor." *Taylor v. United States*, 396 F.3d 1322, 1328–29 (11th Cir. 2005); *see also* (b) (6) [redacted]		

Fla. Stat. § 794.05: Unlawful Sexual Activity with Certain Minors (effective October 1, 2014)

(1) A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this section, "sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.
(2) The provisions of this section do not apply to a person 16 or 17 years of age who has had the disabilities of nonage removed under chapter 743.
(3) The victim's prior sexual conduct is not a relevant issue in a prosecution under this section.
(4) If an offense under this section directly results in the victim giving birth to a child, paternity of that child shall be established as described in chapter 742. If it is determined that the offender is the father of the child, the offender must pay child support pursuant to the child support guidelines described in chapter 61.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	Second-degree felony: 15 years	**YES** The BIA has reasoned that the significant age discrepancy reflects the seriousness and exploitative nature of the crime. *Matter of V-F-D-*, 23 I&N Dec. 859 (BIA 2006) (holding that a victim of sexual abuse who is under the age of 18 is a "minor" for purposes of determining whether an alien has been convicted of sexual abuse of a minor within the meaning of INA § 101(a)(43)(A)).		

TAX ON SALES, USE, AND OTHER TRANSACTIONS

Fla. Stat. § 212.05(1)(a)(1)b.: Sales, Storage, Use Tax (effective July 1, 2016)

It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)(i)	First-degree misdemeanor: 1 year		(b) (5) [redacted]	

THEFT, ROBBERY, AND RELATED CRIMES

Fla. Stat. § 812.13: Robbery (effective October 1, 1992)

(1) "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.
(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3)(a) An act shall be deemed "in the course of committing the robbery" if it occurs in an attempt to commit robbery or in flight after the attempt or commission.
(b) An act shall be deemed "in the course of the taking" if it occurs either prior to, contemporaneous with, or subsequent to the taking of the property and if it and the act of taking constitute a continuous series of acts or events.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A) **AGG FEL** 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U)) **FIREARM** 237(a)(2)(C)	First-degree felony: 30 years Second-degree felony: 15 years	**Crime of Violence under 18 U.S.C. § 16(b): NO, the Supreme Court has ruled that section 16(b) is unconstitutional. *See Sessions v. Dimaya*, (Apr. 17, 2018).** *Dimaya* thus overrules *Matter of Odner Jaccima*, 2016 WL 6137083, at *1 (BIA Aug. 4, 2016) **Crime of Violence under 18 U.S.C. § 16(a): YES**, the U.S. Supreme Court held that robbery under Florida law, Fla. Stat. § 812.13(1), satisfies the ACCA's elements clause (similar to § 16(a)). *See Stokeling v. United States*, 139 S. Ct. 544 (2019) (affirming *United States v. Stokeling*, 684 F. App'x 870, 871 (11th Cir. 2017)).	**YES** The BIA has considered robbery offenses to be a crime involving moral turpitude. *See Matter of Martin*, 18 I&N Dec. 226, 227 (BIA 1982); *see also Jaimes-Lopez v. U.S. Att't Gen.*, No. 15-15532, 2017 WL 83751 (11th Cir. Jan. 10, 2017) (the court reaffirmed its previous finding that a conviction under 812.13(2)(a) categorically qualifies as a crime involving moral turpitude, and thus the court need not decide whether the statute is divisible or indivisible). The Court further stated that the	(b) (5) [redacted]

		Violent Felony under the Armed Career Criminal Act § 924(e): Yes – 812.13(1) **The Eleventh Circuit has held that armed robbery** conviction under 812.13 is a violent felony because the least culpable conduct sufficient to support a conviction under the statute—"taking by putting the victim in fear"—has as an element the use, attempted use, or threatened use of physical force against the person of another. *United States v. Seabrooks*, 839 F.3d 1326 (11th Cir. 2016) (addressing the 1995 robbery statute); *see also United States v. Welch*, 683 F.3d 1304, 1313 (11th Cir. 2012) (finding that robbery in Florida involves substantial risk of physical injury to the victim and that a 1996 robbery conviction was a violent felony under the A.C.C.A.'s residual clause); *United States v. Wilkerson*, 286 F.3d 1324, 1325 (11th Cir. 2002) (finding that 812.13(1) was a violent felony under the A.C.C.A.); *see also Johnson v. United States.*, 559 U.S 133, 140 (2010) (providing that Florida robbery has always required the "substantial degree of force" required by the ACCA's elements clause). **For "Robbery by Sudden Snatching" Before 1999 Statute was Enacted:** The Eleventh Circuit has held that robbery by sudden snatching categorically qualifies	least culpable conduct necessary to sustain a conviction under the statute involves moral turpitude. *See id.* at 12.	

		as a violent felony under the ACCA, even if it occurred before 1999. *See United States v. Fritts*, 841 F.3d 937, 932–44 (11th Cir. 2016), *United States v. Dowd*, 451 F.3d 1244, 1255 (11th Cir. 2006) (conviction from 1974) (holding that armed robbery was undeniably a conviction for a violent felony under the ACCA's elements clause). The Florida Supreme Court has held that Florida robbery has *never* included a theft or taking by mere snatching because snatching is theft only and does not involve the degree of physical force needed to sustain a robbery conviction. The new sudden snatching statute was apparently needed *because* robbery did not cover sudden snatching where there was no resistance by the victim and no physical force to overcome it. *See United States v. Stokeling*, 16-12951, 2017 WL 1279086, at *1 (11th Cir. Apr. 6, 2017). **Violent Felony under the Armed Career Criminal Act § 924(e): Yes – 812.13(2)(c)**. The Eleventh Circuit held that **attempted strong arm robbery** is categorically a violent felony under the ACCA's elements clause. *U.S. v. Joyner*, No. 16-17285, 2018 WL 1015765, at *8–9 (11th Cir. Feb. 22, 2018). The panel noted that Florida's attempt statute, Fla. Stat. § 777.04, is "a close analogue" to generic attempt as both require an overt act beyond mere		

		preparation. *Id.* at *8. As to the substantive offense, the panel followed *U.S. v. Lockley,* 632 F.3d 1238, 1240, 1242–43, 1245 (11th Cir. 2011) and its progeny in holding that Florida robbery has, as an element, the "use, attempted use, or threatened use of physical force against the person of another." *Joyner*, No. 16-17285, 2018 WL 1015765, at *9. Florida robbery involves either the use or threatened use of physical force, or some act that puts the victim in fear of death or great bodily harm. *Id.* at *8. According to *Lockley*, "putting in fear," involves an act causing the victim to fear death or great bodily harm, and the court could "conceive of no means by which a defendant could cause such fear absent a threat to the victim's person." 632 F.3d at 1244.		

Fla. Stat. § 812.014: Theft (effective July 1, 2016)

(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:
(a) Deprive the other person of a right to the property or a benefit from the property.
(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.
(2)(a)1. If the property stolen is valued at $100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or
2. If the property stolen is cargo valued at $50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
3. If the offender commits any grand theft and:
a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
b. In the course of committing the offense the offender causes damage to the real or personal property of another in excess of $1,000,
the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.
(b)1. If the property stolen is valued at $20,000 or more, but less than $100,000;
2. The property stolen is cargo valued at less than $50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;
3. The property stolen is emergency medical equipment, valued at $300 or more, that is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401; or
4. The property stolen is law enforcement equipment, valued at $300 or more, that is taken from an authorized emergency vehicle, as defined in s. 316.003,
the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002(9) or to treat medical emergencies. Law enforcement equipment means any property, device, or apparatus used by any law enforcement officer as defined in s. 943.10 in the officer's official business. However, if the property is stolen within a county that is subject to a state of emergency declared by the Governor under chapter 252, the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this paragraph, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.
(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:
1. Valued at $300 or more, but less than $5,000.
2. Valued at $5,000 or more, but less than $10,000.
3. Valued at $10,000 or more, but less than $20,000.
4. A will, codicil, or other testamentary instrument.
5. A firearm.
6. A motor vehicle, except as provided in paragraph (a).
7. Any commercially farmed animal, including any animal of the equine, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is aquaculture species raised at a certified aquaculture facility, then a $10,000 fine shall be imposed.

8. Any fire extinguisher.
9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.
10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).
11. Any stop sign.
12. Anhydrous ammonia.
13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or the response time for first responders or homeland security personnel. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $100 or more, but less than $300, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at $100 or more, but less than $300, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(3)(a) Theft of any property not specified in subsection (2) is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and as provided in subsection (5), as applicable.

(b) A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who commits petit theft and who has previously been convicted two or more times of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(d)1. Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant, , and that they were placed thereon by said defendant in my presence, in open court, this the day of , (year) ."

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."

2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, is admissible in evidence in the courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.

(4) Failure to comply with the terms of a lease when the lease is for a term of 1 year or longer shall not constitute a violation of this section unless demand for the return of the property leased has been made in writing and the lessee has failed to return the property within 7 days of his or her receipt of the demand for return of the property. A demand mailed by certified or registered mail, evidenced by return receipt, to the last known address of the lessee shall be deemed sufficient and equivalent to the demand having been received by the lessee, whether such demand shall be returned undelivered or not.

(5)(a) No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which gasoline offered for retail sale was dispensed into the fuel tank of such motor vehicle unless the payment of authorized charge for the gasoline dispensed has been made.
(b) In addition to the penalties prescribed in paragraph (3)(a), every judgment of guilty of a petit theft for property described in this subsection shall provide for the suspension of the convicted person's driver license. The court shall forward the driver license to the Department of Highway Safety and Motor Vehicles in accordance with s. 322.25.
1. The first suspension of a driver license under this subsection shall be for a period of up to 6 months.
2. The second or subsequent suspension of a driver license under this subsection shall be for a period of 1 year.
(6) A person who individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing theft under this section where the stolen property has a value in excess of $3,000 commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A) **AGG FEL** 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	First-degree felony: 30 years Second-degree felony: 15 years Third-degree felony: 5 years	**MAYBE** The Eleventh Circuit held that the Florida theft statute was **divisible** because it contains two mens rea: the intent to deprive another of the rights (subpart a) and benefits of property and the intent to appropriate property for one's own use (subpart b). *See Jaggernauth v. U.S. Att'y Gen.*, 432 F.3d 1346, 1354 (11th Cir. 2005). Thus, the statute contains offenses that are aggravated felonies and others that are not. If the alien was convicted under subpart a, then his or her offense would qualify as a theft offense. However, if the alien was convicted under subpart b, which requires only intent to appropriate use of the property, the conviction would not necessarily constitute a theft	(b) (5) [redacted]	

		offense because the alien would lack the requisite intent to deprive the owner of the rights and benefits of ownership. *See id.* at 1355. Accordingly, because the statute is divisible and criminalizes non aggravated felonies and aggravated felonies, the IJ must proceed to the modified categorical approach and examine the record of conviction to determine which subpart constituted the alien's conviction.	(b) (5) [redacted]	

			(b) (5) [redacted] ***The BIA has specifically addressed this statute in several detailed unpublished decisions and held that a conviction under **Fla. Stat. § 812.014 is not a CIMT because the statute does not require the State to prove more than a *de minimis* taking, which is necessary for a theft CIMT.** [redacted] (b)(6) [redacted]	

Fla. Stat. § 812.015: Retail and Farm Theft; Transit Fare Evasion; Mandatory Fine; Alternative Punishment; Detention and Arrest; Exemption from Liability for False Arrest; Resisting Arrest; Penalties (effective July 1, 2012)

(1) As used in this section:
(a) "Merchandise" means any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.
(b) "Merchant" means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.
(c) "Value of merchandise" means the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

(d) "Retail theft" means the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

(e) "Farm produce" means livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.
(f) "Farmer" means a person who is engaging in the growing or producing of farm produce, milk products, honey, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent. No person defined as a farm labor contractor pursuant to s. 450.28 shall be designated to act as an agent for purposes of this section.
(g) "Farm theft" means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. 823.14(3)(c).
(h) "Antishoplifting or inventory control device" means a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise. The term includes any electronic or digital imaging or any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.
(i) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.
(j) "Transit fare evasion" means the unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare-paying passengers, and shall constitute petit theft as proscribed by this chapter.
(k) "Mass transit vehicle" means buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare-paying passengers.
(*l*) "Transit agency" means any state agency, political subdivision of the state, or municipality which operates mass transit vehicles.
(m) "Trespass" means the violation as described in s. 810.08.

(2) Upon a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency, the offender shall be punished as provided in s. 812.014(3), except that the court shall impose a fine of not less than $50 or more than $1,000. However, in lieu of such fine, the court may require the offender to perform public

services designated by the court. In no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

(3)(a) A law enforcement officer, a merchant, a farmer, or a transit agency's employee or agent, who has probable cause to believe that a retail theft, farm theft, a transit fare evasion, or trespass, or unlawful use or attempted use of any antishoplifting or inventory control device countermeasure, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time. In the case of a farmer, taking into custody shall be effectuated only on property owned or leased by the farmer. In the event the merchant, merchant's employee, farmer, or a transit agency's employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody.
(b) The activation of an antishoplifting or inventory control device as a result of a person exiting an establishment or a protected area within an establishment shall constitute reasonable cause for the detention of the person so exiting by the owner or operator of the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that such a device is being utilized. Each such detention shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device.
(c) The taking into custody and detention by a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent, if done in compliance with all the requirements of this subsection, shall not render such law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent, criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(4) Any law enforcement officer may arrest, either on or off the premises and without warrant, any person the officer has probable cause to believe unlawfully possesses, or is unlawfully using or attempting to use or has used or attempted to use, any antishoplifting or inventory control device countermeasure or has committed theft in a retail or wholesale establishment or on commercial or private farm lands of a farmer or transit fare evasion or trespass.

(5)(a) A merchant, merchant's employee, farmer, or a transit agency's employee or agent who takes a person into custody, as provided in subsection (3), or who causes an arrest, as provided in subsection (4), of a person for retail theft, farm theft, transit fare evasion, or trespass shall not be criminally or civilly liable for false arrest or false imprisonment when the merchant, merchant's employee, farmer, or a transit agency's employee or agent has probable cause to believe that the person committed retail theft, farm theft, transit fare evasion, or trespass.
(b) If a merchant or merchant's employee takes a person into custody as provided in this section, or acts as a witness with respect to any person taken into custody as provided in this section, the merchant or merchant's employee may provide his or her business address rather than home address to any investigating law enforcement officer.

(6) An individual who, while committing or after committing theft of property, transit fare evasion, or trespass, resists the reasonable effort of a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent to recover the property or cause the individual to pay the proper transit fare or vacate the transit facility which the law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent had probable cause to believe the individual had concealed or removed from its place of display or elsewhere or perpetrated a transit fare evasion or trespass commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, unless the individual did not know, or did not have reason to know, that the person seeking to recover the property was a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent. For purposes of this section the charge of theft and the charge of resisting may be tried concurrently.

(7) It is unlawful to possess, or use or attempt to use, any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise. Any person who possesses any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who uses or attempts to use

any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Except as provided in subsection (9), a person who commits retail theft commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $300 or more, and the person:
(a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;
(b) Commits theft from more than one location within a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;
(c) Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or
(d) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.

(9) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:
(a) Violates subsection (8) and has previously been convicted of a violation of subsection (8); or
(b) Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of $3,000.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)	812.015(6): first-degree misdemeanor: 1 year 812.015(7) and (8): third-degree felony: 5 years 812.015(9) (re-offenders): second-degree felony: 5 years		(b) (5) [redacted]	

			(b) (5) [redacted]	

Fla. Stat. § 812.019: Dealing in Stolen Property

812.019 Dealing in stolen property.—
(1) Any person who traffics in, or endeavors to traffic in, property that he or she knows or should know was stolen shall be guilty of a felony of the second degree, punishable as provided in ss. 775.082, 775.083, and 775.084.
(2) Any person who initiates, organizes, plans, finances, directs, manages, or supervises the theft of property and traffics in such stolen property shall be guilty of a felony of the first degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)	Second Degree Felony: 15 years		**MAYBE** Fla. Stat. 812.019 is not categorically a CIMT because the least culpable conduct does not contain the requisite level of intent. It explains that "should know" under the statute is equivalent to "reason to believe," and that "reason to believe" is equivalent to "criminal negligence"; thus, because criminal negligence is not one of the levels of intent necessary to constitute a CIMT, the statute is not categorically a CIMT. *See* (b) (6) [redacted]	

Fla. Stat. § 812.022: Evidence of Theft or Dealing in Stolen Property (effective July 1, 2016)

(1) Proof that a person presented false identification, or identification not current with respect to name, address, place of employment, or other material aspects, in connection with the leasing of personal property, or failed to return leased property within 72 hours of the termination of the leasing agreement, unless satisfactorily explained, gives rise to an inference that such property was obtained or is now used with intent to commit theft.

(2) Except as provided in subsection (5), proof of possession of property recently stolen, unless satisfactorily explained, gives rise to an inference that the person in possession of the property knew or should have known that the property had been stolen.

(3) Proof of the purchase or sale of stolen property at a price substantially below the fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew or should have known that the property had been stolen.

(4) Proof of the purchase or sale of stolen property by a dealer in property, out of the regular course of business or without the usual indicia of ownership other than mere possession, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew or should have known that it had been stolen.

(5) Proof that a dealer who regularly deals in used property possesses stolen property upon which a name and phone number of a person other than the offeror of the property are conspicuously displayed gives rise to an inference that the dealer possessing the property knew or should have known that the property was stolen.
(a) If the name and phone number are for a business that rents property, the dealer avoids the inference by contacting such business, prior to accepting the property, to verify that the property was not stolen from such business. If the name and phone number are not for a business that rents property, the dealer avoids the inference by contacting the local law enforcement agency in the jurisdiction where the dealer is located, prior to accepting the property, to verify that the property has not been reported stolen. An accurate written record, which contains the number called, the date and time of such call, and the name and place of employment of the person who verified that the property was not stolen, is sufficient evidence to avoid the inference pursuant to this subsection.
(b) This subsection does not apply to:
1. Persons, entities, or transactions exempt from chapter 538.
2. Used sports equipment that does not contain a serial number, printed or recorded materials, computer software, or videos or video games.
3. A dealer who implements, in a continuous and consistent manner, a program for identification and return of stolen property that meets the following criteria:
a. When a dealer is offered property for pawn or purchase that contains conspicuous identifying information that includes a name and phone number, or a dealer is offered property for pawn or purchase that contains ownership information that is affixed to the property pursuant to a written agreement with a business entity or group of associated business entities, the dealer will promptly contact the individual or company whose name is affixed to the property by phone to confirm that the property has not been stolen. If the individual or business contacted indicates that the property has been stolen, the dealer shall not accept the property.
b. If the dealer is unable to verify whether the property is stolen from the individual or business, and if the dealer accepts the property that is later determined to have been stolen, the dealer will voluntarily return the property at no cost and without the necessity of a replevin action, if the property owner files the appropriate theft reports with law enforcement and enters into an agreement with the dealer to actively participate in the prosecution of the person or persons who perpetrated the crime.
c. If a dealer is required by law to complete and submit a transaction form to law enforcement, the dealer shall include all conspicuously displayed ownership information on the transaction form.

(6) Proof that a person was in possession of a stolen motor vehicle and that the ignition mechanism of the motor vehicle had been bypassed or the steering wheel locking mechanism had been broken or bypassed, unless satisfactorily explained, gives rise to an inference that the person in possession of the stolen motor vehicle knew or should have known that the motor vehicle had been stolen.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I), 237(a)(2)(A)				(b) (5) [redacted]

VIOLATIONS OF CERTAIN COMMERCIAL RESTRICTIONS – no case law

VIOLATIONS INVOLVING CHECKS AND DRAFTS

Fla. Stat. § 832.05: Giving Worthless Checks, Drafts, and Debit Card Orders; Penalty; Duty of Drawee; Evidence; Costs; Complaint Form (effective October 1, 2004)

(2) Worthless Checks, Drafts or Debit Card Orders; Penalty; Duty of Drawee
(a) It is unlawful for any person, firm or corporation to draw, make, utter, issue or deliver to another any check, draft, or other written order on any bank or depository, or to use a debit card, for the payment of money or its equivalent, knowing at the time of the drawing, making uttering, issuing, or delivering such check or draft, or at the time of using such debit card, that the maker or drawer thereof had not sufficient funds on deposit in or credit with such bank or depository with which to pay the same on presentation; except that this section does not apply to any check when the payee or holder knows or has been expressly notified prior to the drawing or uttering of the check, or has reason to believe, that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment as aforesaid, nor does this section apply to any postdated check.
(b) A violation of the provisions of this subsection constitutes a misdemeanor of the first degree.
(3) Cashing or Depositing Item with intent to defraud
(a) It is unlawful for any person, by act or common scheme, to cash or deposit any item, as defined in § 674.104(1)(i), in any bank or depository with intent to defraud.
(4) Obtaining Property or Services in return for worthless checks, drafts or debit card orders
(a) It is unlawful for any person, firm, or corporation to obtain any services, goods, wares or other things of value by means of a check, draft, or other written order upon any bank, person, firm or corporation, knowing at the time of the making, drawing, uttering, issuing or delivering of such check or draft that the maker thereof has not sufficient funds on deposit in or credit with such bank or depository with which to the same upon presentation. However, no crime may be charged in respect to the giving of any such check or draft or other written order when the payee knows, has been expressly notified, or has reason to believe that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment thereof. A payee does not have reason to believe a payor does not have sufficient funds to ensure payment of a check solely because the payor has previously issued a worthless check to him or her.
(b) It is unlawful for any person to use a debit card to obtain money, goods, services or anything else of value knowing at the time of such use that he or she does not have sufficient funds on deposit with which to pay for the same or that the value thereof exceeds the amount of credit which is available to him or her through an overdraft financing agreement or prearranged line of credit which is accessible by the use of the card.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(a)(2)(A)(i)(I)	832.05(2): first-degree misdemeanor: 1 year		(b) (5) [redacted]	

WEAPONS AND FIREARMS

Fla. Stat. § 790.01: Unlicensed Carrying of Concealed Weapons or Concealed Firearms (effective May 21, 2015)

(1) Except as provided in subsection (3), a person who is not licensed under s. 790.06 and who carries a concealed weapon or electric weapon or device on or about his or her person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(2) Except as provided in subsection (3), a person who is not licensed under s. 790.06 and who carries a concealed firearm on or about his or her person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(3) This section does not apply to:
(a) A person who carries a concealed weapon, or a person who may lawfully possess a firearm and who carries a concealed firearm, on or about his or her person while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to chapter 252 or declared by a local authority pursuant to chapter 870. As used in this subsection, the term "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. The 48 hours may be extended by an order issued by the Governor.
(b) A person who carries for purposes of lawful self-defense, in a concealed manner:
1. A self-defense chemical spray.
2. A nonlethal stun gun or dart-firing stun gun or other nonlethal electric weapon or device that is designed solely for defensive purposes.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U)) **CIMT** 212(A)(2)(A)(i)(I), 237(A)(2)(A) **FIREARM** 237(a)(2)(C)	First-degree misdemeanor: 1 year Third-degree felony: 5 years	(b) (5) [redacted]	[redacted]	

Fla. Stat. § 790.10: Improper Exhibition of Dangerous Weapons or Firearms (effective May 30, 1991)

If any person having or carrying any dirk, sword, sword cane, firearm, electric weapon or device, or other weapon shall, in the presence of one or more persons, exhibit the same in a rude, careless, angry, or threatening manner, not in necessary self-defense, the person so offending shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
FIREARM 237(a)(2)(C)	First-degree misdemeanor: 1 year			(b) (5) [redacted]

Fla. Stat. § 790.19: Shooting into or Throwing Deadly Missiles into Dwellings, Public or Private Buildings, Occupied or Not Occupied; Vessels, Aircraft, Buses, Railroad Cars, Streetcars, or Other Vehicles (effective 1974)

Whoever, wantonly or maliciously, shoots at, within, or into, or throws any missile or hurls or projects a stone or other hard substance which would produce death or great bodily harm, at, within, or in any public or private building, occupied or unoccupied, or public or private bus or any train, locomotive, railway car, caboose, cable railway car, street railway car, monorail car, or vehicle of any kind which is being used or occupied by any person, or any boat, vessel, ship, or barge lying in or plying the waters of this state, or aircraft flying through the airspace of this state shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
AGG FEL 237(a)(2)(A)(iii) (corresponds with § 101(a)(43)(A)–(U))	Second-degree felony: 15 years		**MAYBE** The BIA has found that a conviction under 790.19 is categorically a CIMT. *See* (b) (6) [redacted] The statute's least culpable conduct includes reckless disregard, which can support a CIMT finding. The Board concluded that a conviction under the statute categorically involves moral turpitude, as such a crime carries a serious potential risk physical injury or damage to the person or property of another [redacted]	(b) (5) [redacted]

WORKERS' COMPENSATION

Fla. Stat. § 440.105: Prohibited Activities; Reports; Penalties; Limitations (effective July 1, 2016)

(2) Whoever violates any provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(a) It shall be unlawful for any employer to knowingly:
1. Coerce or attempt to coerce, as a precondition to employment or otherwise, an employee to obtain a certificate of election of exemption pursuant to s. 440.05.
2. Discharge or refuse to hire an employee or job applicant because the employee or applicant has filed a claim for benefits under this chapter.
3. Discharge, discipline, or take any other adverse personnel action against any employee for disclosing information to the department or any law enforcement agency relating to any violation or suspected violation of any of the provisions of this chapter or rules promulgated hereunder.
(b) It shall be unlawful for any insurance entity to revoke or cancel a workers' compensation insurance policy or membership because an employer has returned an employee to work or hired an employee who has filed a workers' compensation claim.
(3) Whoever violates any provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
(a) It shall be unlawful for any employer to knowingly fail to update applications for coverage as required by s. 440.381(1) and department rules within 7 days after the reporting date for any change in the required information, or to post notice of coverage pursuant to s. 440.40.
(b) It shall be unlawful for any employer to knowingly participate in the creation of the employment relationship in which the employee has used any false, fraudulent, or misleading oral or written statement as evidence of identity.
(c) It is unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee, or for any firm, corporation, partnership, or association to receive any fee or other consideration or any gratuity from a person on account of services rendered for a person in connection with any proceedings arising under this chapter, unless such fee, consideration, or gratuity is approved by a judge of compensation claims or by the Deputy Chief Judge of Compensation Claims.
(4) Whoever violates any provision of this subsection commits insurance fraud, punishable as provided in paragraph (f).
(a) It shall be unlawful for any employer to knowingly:
1. Present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38.
2. Make a deduction from the pay of any employee entitled to the benefits of this chapter for the purpose of requiring the employee to pay any portion of premium paid by the employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this chapter.
3. Fail to secure workers' compensation insurance coverage if required to do so by this chapter.
(b) It shall be unlawful for any person:
1. To knowingly make, or cause to be made, any false, fraudulent, or misleading oral or written statement for the purpose of obtaining or denying any benefit or payment under this chapter.
2. To present or cause to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.
3. To prepare or cause to be prepared any written or oral statement that is intended to be presented to any employer, insurance company, or self-insured program in connection with, or in support of, any claim for payment or other benefit pursuant to any provision of this chapter, knowing that such statement contains any false, incomplete, or misleading information concerning any fact or thing material to such claim.
4. To knowingly assist, conspire with, or urge any person to engage in activity prohibited by this section.
5. To knowingly make any false, fraudulent, or misleading oral or written statement, or to knowingly omit or conceal material information, required by s. 440.185 or s. 440.381, for the purpose of obtaining workers' compensation coverage or for the purpose of avoiding, delaying, or diminishing the amount of payment of any workers' compensation premiums.

6. To knowingly misrepresent or conceal payroll, classification of workers, or information regarding an employer's loss history which would be material to the computation and application of an experience rating modification factor for the purpose of avoiding or diminishing the amount of payment of any workers' compensation premiums.
7. To knowingly present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of compliance with s. 440.38, as evidence of eligibility for a certificate of exemption under s. 440.05.
8. To knowingly violate a stop-work order issued by the department pursuant to s. 440.107.
9. To knowingly present or cause to be presented any false, fraudulent, or misleading oral or written statement to any person as evidence of identity for the purpose of obtaining employment or filing or supporting a claim for workers' compensation benefits.
(c) It shall be unlawful for any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, podiatric physician licensed under chapter 461, optometric physician licensed under chapter 463, or any other practitioner licensed under the laws of this state to knowingly and willfully assist, conspire with, or urge any person to fraudulently violate any of the provisions of this chapter.
(d) It shall be unlawful for any person or governmental entity licensed under chapter 395 to maintain or operate a hospital in such a manner so that such person or governmental entity knowingly and willfully allows the use of the facilities of such hospital by any person, in a scheme or conspiracy to fraudulently violate any of the provisions of this chapter.
(e) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee, or any firm, corporation, partnership, or association, to knowingly assist, conspire with, or urge any person to fraudulently violate any of the provisions of this chapter.
(f) If the monetary value of any violation of this subsection:
1. Is less than $20,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
2. Is $20,000 or more, but less than $100,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. Is $100,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(5) It shall be unlawful for any attorney or other person, in his or her individual capacity or in his or her capacity as a public or private employee or for any firm, corporation, partnership, or association, to unlawfully solicit any business in and about city or county hospitals, courts, or any public institution or public place; in and about private hospitals or sanitariums; in and about any private institution; or upon private property of any character whatsoever for the purpose of making workers' compensation claims. Whoever violates any provision of this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Possible Charge of Removability	Maximum Sentence	Aggravated Felony?	Crime Involving Moral Turpitude?	Others?
CIMT 212(A)(2)(A)(i)(I), 237(A)(2)(A)			**PROBABLY YES – 440.105(4)(a)(3)** The BIA has affirmed an IJ's conclusion that this statute is categorically a CIMT because fraud is an "ingredient" of the offense, reasoning that the BIA has consistently held that inherently fraudulent offenses are CIMTs. *See Matter of* (b) (6) [redacted] *iting Matter of Kochlani*, 24 I&N Dec. 128, 131 (BIA 2007) (explaining that	

			trafficking in counterfeit goods is a CIMT); *Matter of Jurado-Delgado*, 24 I&N Dec. 29, 34 (BIA 2006) (observing that a crime of making false statements is a CIMT where the elements of materiality and knowledge are shown); *Matter of Flores*, 17 I&N Dec. 225, 227–30 (BIA 1980) (holding that where fraud is clearly an ingredient of a crime, it involves moral turpitude, even if the usual phraseology concerning fraud is not included in the statute)); *see also Jordan v. DeGeorge*, 341 U.S. 223, 227–29 (1951) (stating that a crime involving fraud necessarily involves moral turpitude).	